

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Review of the Emergency Alert System)	EB Docket No. 04-296
)	

To: The Commission

**JOINT COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS AND
THE ASSOCIATION FOR MAXIMUM SERVICE TELEVISION, INC.**

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EXECUTIVE SUMMARY

The National Association of Broadcasters and the Association for Maximum Service Television, Inc. hereby file joint comments in response to the *Notice of Proposed Rule Making* in the above-captioned proceeding. Broadcasters are proud partners with the government in public warning. From the creation of AMBER alerts for abducted children, to coordinating with state and local emergency planners, to their active participation in the Media Security and Reliability Council (“MSRC”), broadcasters are committed to serve their local communities.

As we begin to explore the means by which new and emerging digital technologies may enhance public warning, broadcasters remain committed to their role in serving their communities. Currently that role extends well beyond the EAS architecture. In an era of instantaneous communications, those in the broadcast audience are provided with a wealth of emergency and critical information through regular broadcast programming that dwarfs the information provided through EAS. As the lessons of September 11 demonstrate, the President and other major government leaders have almost instantaneous access to media without the assistance of EAS. Were, however, that level of instantaneous access to be cut off, the EAS continues to stand ready to serve the public. MSRC recognized that “[e]mergency communications plans must take into account the probability of widespread power outages when AM and FM radio is the *only way* to communicate to battery powered receivers in the community.” Therefore, whether EAS is ultimately used as a primary means of public alert, or as a method of last-resort backup, the existing infrastructure of EAS should be retained.

Many of the issues in the *Notice* reflect recommendations of two recently formed groups: (1) MSRC, whose charter was renewed in March 2004 and (2) the Partnership for Public Warning (“PPW”), a nonprofit organization comprised of emergency management experts and industry representatives. Joint Commenters support many of their recommendations; in particular we endorse two of MSRC’s key findings to successful public warning: (1) “encourage private industry collaboration and planning to meet community needs” and (2) “revitalize and make best use of the EAS.”

Revitalization, however, cannot be achieved through broadcaster mandates alone. Simple yet critical issues, such as a local emergency manager knowing what steps are necessary, including which entities to contact to activate the EAS, remain unresolved in many jurisdictions. State and local plans need an adequate funding source to ensure that all jurisdictions are able to meet the public warning needs and first responder’s needs of their communities. And local plans can be best tailored to reflect the unique and diverse needs of each community. To the extent the Department of Homeland Security (“DHS”) and the Federal Emergency Management Agency (“FEMA”) are willing to take on a more active role in EAS, broadcasters stand ready to endorse that role, including incorporating the current EAS system into a modernized and digitally-enhanced 21st century communications environment. Steps such as the development of an all-hazard warning protocol can facilitate both first responders and public warnings. And because FEMA has direct authority over state and local emergency funding, it is the government agency best suited to ensure that all state and local governments are fully implementing state and local emergency plans. While broadcasters look forward to working with DHS in its efforts to strengthening the Primary Entry Point (“PEP”) system, and in strengthening state and local

emergency plans, as the federal agency charged with ensuring licensee compliance, the Commission should retain oversight of broadcasters' EAS activities.

Additionally, Joint Commenters support many of the Commission's proposals to improve EAS. Specifically, we endorse uniform adoption of the 2002 revised EAS Codes, so long as (1) the phase-period is reasonable, *e.g.*, no fewer than 180 days from adoption of a Report and Order and (2) the Commission is willing to accommodate those broadcasters in small markets with waivers for adequate time to adopt the revised codes. Joint Commenters also support the Commission's efforts in ensuring the security of EAS, adoption of a Common Alerting Protocol ("CAP") and the integration of enhanced public warning features into radio and television receivers to ensure all Americans, including those persons with disabilities and non-English speaking persons have timely access to emergency information.

Further, Joint Commenters generally support DTV and DAB stations' participation in the EAS programming as a natural extension of broadcasters' public interest obligations. However, the Commission should not require the force-tuning of digital television broadcast streams. And in light of the numerous problems associated with cable overrides, we urge the Commission to revise its EAS rules to mandate only "selective override" of broadcast stations for both the digital and analog cable.

Finally, while broadcasters support efforts to enhance the performance of EAS during state and local emergencies, mandatory requirements will not improve public warning. The Commission requests comment on a series of requirements for state and local use of EAS, including mandatory use of EAS codes, standards for activation, and requiring broadcasters to "make their facilities available to local emergency managers." Joint Commenters strongly urge the Commission to categorically reject these proposals on several grounds. First, the

Commission lacks the authority to require state and local activation of the EAS. Second, a national standard for state and local activation of the EAS is wholly unworkable, given the geographic diversity of the U.S. and economic disparity amongst various state and local emergency planners. Third, the Commission does not have the authority to require local broadcasters to make their facilities available to local emergency managers.

In lieu of unspecified mandates, the Commission should encourage private-public cooperation in enhancing emergency warning, such as (1) the recently announced emergency public communication system for New York City, which is modeled on the federal system, and allows the mayor to interrupt broadcasts to make two-minute emergency announcements, (2) WFSU-TV/FM's agreement with Florida state officials carry emergency programming/press conferences, and (3) building on the successful relationships established by local broadcasters, local emergency planners and state broadcaster associations. It is through broadcasters' *voluntary cooperation* and a strengthening of state and local emergency plans that the government can best enhance public warnings.

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I. Introduction.

The National Association of Broadcasters (“NAB”) and the Association for Maximum Service Television, Inc. (“MSTV”) ¹ hereby file joint comments in response to the *Notice of Proposed Rule Making* (“*Notice*”) in the above-captioned proceeding. ²

Joint Commenters applaud the Commission for its continuous efforts to improve public warning and we welcome the opportunity to comment on the issues raised in the *Notice*. Informing the public of national, state and local emergencies has been an important part of broadcasters’ public service obligations for many years. Through the use of live news coverage and the Emergency Alert System (“EAS”), broadcasters have invested millions of dollars to ensure that the local communities they serve have timely access to critical, and often life-saving information.

¹ NAB is a nonprofit, incorporated association that serves and represents America’s radio and television broadcast stations. MSTV is a nonprofit trade association of local broadcast television stations committed to achieving and maintaining the highest technical quality for the local broadcast system (“Joint Commenters”).

² In the Matter of Review of the Emergency Alert System, *Notice of Proposed Rule Making*, EB Docket No. 04-296, rel. Aug. 12, 2004 (“*Notice*”).

Broadcasters are also proud partners with the government in public warning. As a universal and free-over-the air service, local broadcasters' household penetration rates reach 98.2% for television and 98.5% for radio of the approximately 108,620,000 American households.³ Through their ability to reach the vast majority of Americans, broadcasters are keenly aware of the unique role they play in disseminating emergency information. From the creation of AMBER alerts for abducted children, to coordinating with state and local emergency planners, to their active participation in the Media Security and Reliability Council ("MSRC"), broadcasters are committed to serve their local communities.

Many of the issues in the *Notice* reflect recommendations of two recently formed groups: (1) MSRC, whose charter was renewed in March 2004 and (2) the Partnership for Public Warning ("PPW"), a nonprofit organization comprised of emergency management experts and industry representatives. *Notice* at ¶¶ 20-23. Joint Commenters support many of their recommendations; in particular we endorse two of MSRC's key findings to successful public warning: (1) "encourage private industry collaboration and planning to meet community needs" and (2) "revitalize and make best use of the EAS."⁴

Revitalization, however, cannot be achieved through broadcaster mandates alone. Simple yet critical issues, such as a local emergency manager knowing what steps are necessary, including which entities to contact to activate the EAS, remain unresolved in many jurisdictions. State and local plans need an adequate funding source to ensure that all jurisdictions are able to meet the public warning needs and first responder's needs of

³ Nielsen Media Research TV Household Estimates, 2003-2004.

⁴ Media Security and Reliability Council, Public Communications and Safety Working Group, *Final Report*, February 18, 2004 at ii ("*MSRC Report*").

their communities. And local plans can be best tailored to reflect the unique and diverse needs of each community. As discussed in detail below, it is through broadcasters' *voluntary cooperation* and a strengthening of state and local emergency plans that the government can best enhance public warnings.

II. While Joint Commenters Support Retention of the Current EAS Structure, Broadcasters' Role in Public Warning Extends Far Beyond the EAS.

The fundamental goal of the EAS, the successor to the Emergency Broadcast System ("EBS"), is to provide Americans with adequate warning of an emergency so that they can prepare and safeguard themselves. Timely delivery of warnings saves lives. This alert system has been significantly remodeled twice in its 50-year history. Created in 1951 by President Harry S. Truman for the purpose of national security, the CONELRAD system was revised into the EBS in 1976 during the Ford Administration. Beginning in 1994, EBS gave way to the current EAS system, providing for greater reliability than its predecessor by depending more on automation and other reliable systems and procedures.⁵ In 2001 the Commission made its most recent modification to EAS, and broadcasters supported many of the Commission's improvements to EAS, such as new state and local event codes, and program EAS equipment that is able to selectively display and log state and local EAS messages.⁶ Although the system has never been activated intentionally on a national level, it is used on average over a thousand times per year to warn citizens of state and local emergencies, ranging from abducted child alerts to storms, hurricanes, floods, tornadoes, and other civil emergencies.

⁵ *Report and Order*, FO Docket Nos. 91-301 and 91-171, December 28, 1994.

⁶ *See In the Matter of Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System*, Comments of NAB, ET Docket No. 01-66, June 11, 2001 at 2-7.

As we begin to explore the means by which new and emerging digital technologies may enhance public warning, broadcasters remain committed to their role in serving their communities. Currently that role extends well beyond the EAS architecture. In an era of instantaneous communications, those in the broadcast audience are provided with a wealth of emergency and critical information through regular broadcast programming that dwarfs the information provided through EAS. As the lessons of September 11 demonstrate, the President and other major government leaders have almost instantaneous access to media without the assistance of EAS. Nearly every broadcaster interrupted regular programming to deliver round-the-clock coverage, and the major television networks and their affiliates suspended regular programming for several days following the terrorist attacks.⁷ Radio stations took live news television feeds, cable and news stations pooled video feeds,⁸ and broadcasters forfeited hundreds of millions of dollars in advertising revenue⁹ to ensure continuous news coverage. In sum, through broadcasters' cooperative efforts, the American public received up-to-the-minute information on the terrorist attacks.

Were, however, that level of instantaneous access to be cut off, the EAS continues to stand ready to serve the public. MSRC recognized that "[e]mergency communications plans must take into account the probability of widespread power outages when AM and FM radio is the *only way* to communicate to battery powered receivers in the

⁷ See Lisa de Moraes, *Wall-to-Wall Coverage Close to Setting A Record*, Washington Post, Sept. 15, 2001, at C7.

⁸ See Felicity Barringer and Geraldine Fatrikant, *As an Attack Unfolds, a Struggle to Provide Vivid Images to Homes*, New York Times, September 12, 2001.

⁹ See Paul Farhi and Christopher Stern, *Big Story Costly to Media Firms*, Washington Post, September 20, 2001, at E01.

community.” *MSRC Report* at 15. Thus, to the extent that a natural or man-made catastrophic event may cut off public access to other forms of communications, *i.e.*, cable, satellite, Internet, wireless telephony, etc., EAS can continue to operate.

Indeed, as the Commission has observed, both MSRC and the Partnership for Public Warning “advocate upgrading, not replacing, EAS.” *Notice* at ¶ 8.¹⁰ Joint Commenters concur. MSRC also detailed that mass media “can play a particularly powerful role in emergency communications, given the ir ability to rapidly and simultaneously reach large and diverse groups of people.” *MSRC Report* at 5. The creation of the EAS came at a cost of over \$27,000,000 to the broadcast industry, at an average of \$2000 per broadcast station.¹¹ Although MSRC recommended the development of “alternative, redundant and/or supplemental public warning,” MSRC also recognized that warning systems “require redundant and robust transmission along local and national backbones for input to a wide variety of distribution systems.” *MSRC Report* at 18 and 13, respectively. Therefore, whether EAS is ultimately used as a primary means of public alert, or as a method of last-resort backup, the existing infrastructure of EAS should be retained.

Recently, the NAB teamed up with Department of Homeland Security (“DHS”) to create *Are You Ready? A Step-by-Step Emergency Preparedness Guidebook to Prepare Your Local Community*, attached as Appendix 1. This resource is designed to get stations and their communities pre-planning for emergency disasters and generate community

¹⁰ See also *MSRC Report* at 11-12; Partnership for Public Warning, *The Emergency Alert System (EAS): An Assessment*, Partnership for Public Warning, Feb. 2004 at 30 (“*PPW Report*”).

¹¹ This is NAB’s conservative estimate based on 12,000 radio stations and 1,500 television stations each paying an average of \$2000 for their EAS equipment.

interest in emergency preparedness. To ensure that the public can receive timely and often-times critical life-saving information, it is incumbent upon broadcasters to be adequately supplied with disaster recovery plans to ensure the public continues to have access to airwaves, especially radio, which may be the only media that can remain online in the home during major power failure. Joint Commenters look forward to working with the Commission via the recently re-chartered MSRC to facilitate implementation of such plans.

In addition to ensuring continuous broadcast service during emergencies, it is also crucial that broadcasters retain both the flexibility to provide emergency information via live news coverage *and* retain the ability to initiate EAS warnings at their own discretion. As the recent hurricane events in Florida demonstrate, the information broadcasters provide to their communities is life-saving – while in August the National Hurricane Center was predicting a class 2 hurricane, it was *local broadcasters* that warned viewers that the storm had turned sharply to the east.¹² Florida broadcasters, who worked closely with the Governor’s office, activated the state EAS on three occasions in both English and Spanish as to the hurricane’s expected path. While Joint Commenters recognize that careful coordination between emergency managers and broadcasters is essential to a healthy and viable EAS, the Commission has not demonstrated any evidence of broadcaster misuse of EAS. Moreover, if wireless or other communications systems are malfunctioning, and emergency managers are somehow unable to initiate EAS warnings, it may be that the only means of broad public warning is through broadcasters’ EAS

¹² See Letter from Eddie Fritts, President, NAB, and Pat Roberts, President, Florida Association of Broadcasters, to Chairman Powell, FCC, Aug. 17, 2004.

activation. Thus, the Commission should reject any limitations on broadcasters' ability to initiate EAS alerts. We next turn to the issue of agency oversight of public warnings.

III. Strong Federal Oversight for Public Warning is Needed.

A. Federal EAS Program Responsibility.

The Commission seeks comment on MSRC and PPW's recommendation that a single federal entity, *e.g.*, the Department of Homeland Security ("DHS"), be responsible for EAS and that an all-hazard warning communication protocol be developed. *Notice* at ¶ 8. To the extent DHS is willing to take on a more active role in EAS, broadcasters stand ready to endorse that role, including incorporating the current EAS system into a modernized and digitally-enhanced 21st century communications environment. Steps such as the development of an all-hazard warning protocol can facilitate both first responders and public warnings.

Recently, DHS has taken significant measures to improve the *national* component of EAS. Through Federal Emergency Management Agency ("FEMA") and its Integrated Public Alert and Warning Systems ("IPAWS") program, the government is currently using digital technology to upgrade the national 34 Primary Entry Points ("PEP") radio stations to a satellite-based system.¹³ Additionally, the Presidential Budget for Fiscal Year 2005 provides an additional two million dollars in funds to improve EAS.¹⁴ Through conversations with FEMA, Joint Commenters have learned that they intend to expand the current 34 PEP to every state, and eventually, every state emergency

¹³ Statement of Reynold N. Hoover, Director, Office of National Security Coordination, FEMA, DHS, Before the Select Homeland Security Subcommittee on Emergency Preparedness and Response House of Representatives on Public Alert and Warning, Sept. 22, 2004 at 2, 5 ("Reynold Hoover Testimony").

¹⁴ *Id.*

operations center (“EOC”). This effort echoes MSRC’s recommendation of equipping EOCs with either EAS encoders or the ability to provide feeds to local media. *MSRC Report* at 14.

Additionally, in June 2004, DHS and National Oceanic and Atmospheric Administration (“NOAA”) signed an agreement to allow Homeland Security to send critical all-hazards alerts and warning directly through the NOAA All-Hazards Network.¹⁵ DHS’ efforts to ensure redundant communications lines (ground and satellite) and an additional delivery means of public warning (via NOAA Weather Radio) exemplify simple, yet strategic methods of improving emergency warning systems. Joint Commenters wholly support DHS’ leadership role in strengthening EAS, and we look forward to future dialogs towards jointly improving public warnings.

In the future, DHS and FEMA may wish to expand the testing of the PEP system. The Commission notes that no on-air tests of the PEP system have been conducted. *Notice* at 43. FEMA, however, tests its connectivity to the 34 PEP stations on a weekly basis.¹⁶ PPW also acknowledges that, despite the lack of on-air testing, “there is convincing evidence that the system is capable of performing its mission.” *PPW Report* at 14. As the Commission recognizes, FEMA is “responsible for implementation of the national level activation of EAS, test, and exercises.” *Notice* at ¶ 13. Thus, to the extent that FEMA may wish to implement full end-to-end testing of the entire national EAS system, either on a periodic as part of the state required monthly test, Joint Commenters

¹⁵ See Homeland Security Leverages NOAA All-Hazards Network for Alerts and Warnings, DHS Press Office, June 17, 2004, at <http://www.dhs.gov/dhspublic/display?theme=43&content=3724&print=true> (last visited Oct. 29, 2004).

¹⁶ *Id.* at 3.

support efforts to ensure the robustness and reliability of the national EAS component. The non-national component of EAS is discussed below.

B. State and Local EAS Program Responsibility.

MSRC highlighted that a “fundamental flaw” of EAS is that “no one has been put in charge of [its] implementation at the federal and state levels.” *MSRC Report* at 16-17. PPW also noted that “[s]upport for developing and maintaining state and local EAS plans has decreased over the years” and “[g]overnment leadership and support has diminished.” *PPW Report* at 4. PPW also suggested that DHS should, in concert with appropriate federal agencies and other stakeholders, “provide strong management oversight over entire EAS, and clear guidance on key issues such as new technologies, state plans, standards, training and public education.” *Id.* Joint Commenters concur with these assessments.

We also agree that the success of EAS relies on the “unsung and unpaid public service” of the many volunteers that have kept EAS going for the past 40 years, including engineers, emergency management organizations and state broadcaster associations. *PPW Report* at 16. Additionally, the Commission has been an unsung hero for EAS. Its jurisdiction, however, is limited.

The Commission now asks whether these plans, whose existence and implementation vary greatly between jurisdictions,¹⁷ should be required and if so, what is the appropriate agency to oversee implementation, modification and coordination of these plans. *Notice* at ¶¶ 25-26. The Commission, however, has no statutory authority to *require* state and federal entities, or non-licensees, to develop emergency plans. The

¹⁷ PPW estimates that local plans number no more than 100. *PPW Report* at 17.

extent of their authority rests in 47 C.F.R. § 11.21, which require only that, once created, state and local plans be reviewed and approved by the Director of the Office of Homeland Security, Enforcement Bureau, prior to implementation to ensure that they are consistent with national plans, Commission regulations, and EAS operation.

Because FEMA has direct authority over state and local emergency funding, it is the government agency best suited to ensure that all state and local governments are fully implementing state and local emergency plans. Through the Stafford Act, the President can:

...establish a program to provide technical and financial assistance to States and local governments to assist in the implementation of predisaster hazard mitigation measures that are cost-effective and are designed to reduce injuries, loss of life, and damage and destruction of property, including damage to critical services and facilities under the jurisdiction of the States and local governments.

Effective Oct. 30, 2000. 42 U.S.C. §68.

In the same year the Stafford Act was passed, the Executive Office also recognized that future objectives of EAS were “completing development of all State and local EAS plans” and “developing EAS educational and training packages for government and industry personnel.”¹⁸ Through existing legislation, such as the Stafford Act, FEMA is already authorized to assist state and local governments in developing emergency plans. Joint Commenters recognize that adequate funding for such plans, including strengthening state EOCs, may require additional congressional appropriations. However, is critical that state and local plans receive an adequate funding source and

¹⁸ Effective Disaster Warnings, Report by the Working Group on Natural Disaster Information Systems Subcommittee on Natural Disaster Reduction, National Science and Technology Council Committee on Environment and Natural Resources, Nov. 2000 at 29.

strong federal guidance to ensure that all jurisdictions are able to meet the public warning needs and first responder's needs of their communities.

C. Joint Commenters Encourage the Development of Model State and Local Plans.

Maintaining the integrity of the EAS system requires funding for adequate development, implementation and continued training of state and local emergency plans. Joint Commenters therefore urge the Commission to coordinate through DHS and/or MSRC to develop model state and local emergency plans. The potential benefits are enormous. First, state and local emergency managers, who due to budgetary constraints, have been unable to fully implement emergency communications plans, would not be forced to “reinvent the wheel.” Second, federal coordination can ensure that all state and local jurisdictions have plans in place to request and/or activate EAS warnings. Third, federal coordination of emergency plans can highlight the successes of current private-public emergency partnerships.

Numerous examples of positive government-broadcaster partnerships between emergency planners and state broadcast associations are described in detail in the comments of the state broadcasters' associations, filed today in this proceeding. Strengthening these ties should be the common goal of both broadcasters and government agencies. As MSRC detailed, local media can assist state and local government to develop public education programs during disasters. *MSRC Report* at 10. Thus, Joint Commenters urge the government to facilitate the designing and monitoring of model state and local emergency plans.

D. The FCC Should Retain Oversight of Broadcasters' EAS Compliance.

While broadcasters look forward to working with DHS in its efforts to strengthening the PEP system, and in strengthening state and local emergency plans, as the federal agency charged with ensuring licensee compliance, the Commission should retain oversight of broadcasters' EAS activities. Indeed, MSRC anticipated that the FCC would continue to play a "vital role in the federal government's activities." *MSRC Report* at 20. Moreover, Section 301 of the Communications Act specifies that "[i]t is the purpose of this Act, among other things, to maintain the control of the United States over all the channels of radio transmission." 47 U.S.C. § 301 (emphasis added). Section 1 also specifies that the FCC "shall execute and enforce the provisions of this Act." 47 U.S.C. § 151. Thus, the sole agency charged with oversight of broadcast licensee compliance is the FCC.

The Commission also seeks comment on whether it should increase its base forfeiture fine, currently at \$8000, or whether there are additional ways to better ensure broadcaster compliance. *Notice* at ¶ 46. The approximately 80 EAS enforcement actions the FCC took in 2003 are proof that the current enforcement mechanism is adequate to ensure broadcaster compliance. Especially in light of heightened interest in public warning, the Commission's active enforcement of its current rules is sufficient to ensure full compliance. And, as discussed below, broadcasters also support many of the Commission's specific recommendations for strengthening EAS.

IV. Broadcasters Support Many of the Commission's Proposals to Improve EAS.

A. EAS Equipment Should Be Upgraded.

In its report MSRC recommended uniformly implemented EAS equipment. *MSRC Report* at 17. The FCC now seeks comment on whether it should now mandate

adoption of the 2002 revised EAS Codes, and requests appropriate timelines for EAS equipment upgrades. *Notice* at ¶ 24. In large response to the implementation of 49 state and 50 regional/local AMBER programs, which have resulted in the recovery of over 161 abducted children,¹⁹ over two-thirds of broadcasters have already updated their EAS equipment. The cost to broadcasters is not significant, approximately \$100-\$150, and in some instances the upgrades are free. Joint Commenters support implementation of uniform adoption of the 2002 revised EAS Codes, so long as (1) the phase-period is reasonable, *e.g.*, no fewer than 180 days from adoption of a Report and Order and (2) the Commission is willing to accommodate those broadcasters in small markets with waivers for adequate time to adopt the revised codes.

B. Joint Commenters Support Efforts to Ensure EAS Security.

The Commission notes that EAS protocol is a matter of public record and potentially vulnerable to “malicious activations or interference.” *Notice* at ¶ 41. The Commission is contemplating requiring password protection for all EAS encoders and seeks comment on security standards and implementation methods. *Id.* Over six years ago, after conferring with the White House Communications Agency and FEMA, the Commission discontinued use of EAS authenticator lists, also known as the “red envelopes.”²⁰ Generally, authentication “is left to discretion of emergency officials, broadcasters, code words, call back telephone numbers, two-way radio systems, etc.”²¹

¹⁹ http://www.ncmec.org/missingkids/servlet/PageServlet?LanguageCountry=en_US&PageId=991 (last visited Oct. 29, 2004).

²⁰ FCC Public Notice, *Commission to Discontinue Distribution of EAS Authenticator Lists*, Sept. 3, 1998. By letter dated Aug. 25, 1998, FEMA indicated no further requirement of Authenticator Lists for national messages.

²¹ *See Effective Disaster Warnings*, Report by the Working Group on Natural Disaster Information Systems Subcommittee on Natural Disaster Reduction, National Science and

And alerts from NWS, NOAA Weather Radio and NOAA Weather Wire do not require authentication.²² Thus, currently the security of EAS is largely dependent on its source.

The Commission also requires that “access to encoder programming shall be protected by locked or other security measures”²³ While broadcasters support securing of the EAS and other public warning systems to ensure that there is no malicious interference, the *Notice* does not propose a specific type of password or encryption protection. Joint Commenters urge the Commission to coordinate with FEMA and equipment manufacturers to look for technical solutions for ensuring the security of EAS. Concurrent with this effort, broadcasters should continuously strive to ensure their facilities are secure. As a 2003 MRSC committee noted, appropriate physical security, augmented by personnel and/or video surveillance, is key to preventing security breaches.²⁴ As a practical matter, most broadcast facilities, in the wake of September 11, have already heightened their security. Joint Commenters will continue to work with broadcasters, the FCC and FEMA to ensure that best practices for security are employed.

C. Joint Commenters Support Adoption of a Common Alerting Protocol.

Along with ensuring security, Joint Commenters support efforts to expand the public warning platform. On December 17, President Bush signed Homeland Security

Technology Council Committee on Environment and Natural Resources, Nov. 2000 at 46.

²² See FCC Emergency Alert System 2001 TV Handbook at 20.

²³ See 47 C.F.R. § Section 11.32(a)(1).

²⁴ MSRC’s Communications Infrastructure Security, Access & Restoration, Bruce Allen, Chairman, Nov. 6, 2003, Best Practice Recommendations Prevention at 8.

Presidential Directive/Hspd-8.²⁵ This directive established policies to strengthen national preparedness all-hazards and improving mechanisms for improved delivery of public warning. Many efforts are currently underway to develop processes that can facilitate the transmission of warning information through various mediums, including via Internet, wireless or satellite-based digital systems. For example, DHS has entered into an agreement with the public television stations to test a national Homeland Security public safety communications network.²⁶ This testing of this nationwide digital platform may provide new opportunities for advancing a common alerting language and the delivery of public warnings to new telecommunications services.

The Commission seeks comment on the Common Alerting Protocol (“CAP”) developed under the Organization for the Advancement of Structured Information Standards (“OASIS”). *Notice* at ¶ 33. Joint Commenters support the adoption and implementation of CAP. This protocol will provide that uniform language which can be used to ensure that emergency data is understood and properly interpreted by all parties responsible for generating and disseminating public warning information. However, two things must happen to ensure that CAP can be effectively implemented for broadcasters: first, to accommodate broadcasters’ transition to digital television, it is important that a method be devised to carry CAP within DTV transmissions. This work logically falls within the purview of the ATSC. Accordingly, Joint Commenters urge the Commission to work with ATSC as soon as the details of CAP are finalized. Secondly, the Commission must ensure that CAP is fully compatible with existing EAS

²⁵ See <http://www.whitehouse.gov/news/releases/2003/12/20031217-6.html> (last visited Oct. 14, 2004).

²⁶ Reynold Hoover Testimony at 4.

encoder/decoders and does not obsolete the installed base of equipment. This will ensure that EAS can be retained as a backbone for public warning.

D. Joint Commenters Support Integrating Enhanced Public Warning Features into Radio and Television Receivers .

The DHS aptly stated that public warning has been modified several times since its inception, and every change solves some operational problems while creating a new set of challenges.²⁷ Digital broadcasting and advancements in receiver designs will bring many new and innovative services to the American public. Receivers in the future may include features that allow consumers an opt-in mechanism for public warning when their radio or television receivers are not turned on. Thompson and RCA have recently launched a TV line with an integrated NOAA weather radio that has the capability of turning on a receiver when a NOAA Alert is issued.²⁸ While a majority of state and local emergencies are not likely to be transmitted on the centralized NOAA service, future receivers could be configured to turn-on when an EAS alert is issued. Additionally, receivers can be designed to vibrate or sound to alert persons with hearing or vision disabilities, or provide additional audio channels for non-English speaking persons. *Notice at ¶¶ 36-40.* Development of a public warning that turns on passive receivers, however, must strike a careful balance to ensure adequate warning without continuous disruptions. Thus, industry, along with government, should continue to work with

²⁷ Department of Homeland Security to Lead Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities, 2004 WL 65727475 Federal Information & News Dispatch Inc., Friday July 23, 2004. – Office for State and Local Government Coordination and Preparedness, as part of its FY Competitive Training Grants Program.

²⁸ [http://www.ce.org/about_cea/cea_initiatives/viewInitiativesOverview.asp?title=Public%20Alert%20Technology%20Alliance%20\(PATA\)&name=302](http://www.ce.org/about_cea/cea_initiatives/viewInitiativesOverview.asp?title=Public%20Alert%20Technology%20Alliance%20(PATA)&name=302), last visited Oct. 29, 2004.

receiver manufacturers to ensure that the benefits of digital technology develop to allow all persons timely access to emergency information.²⁹

E. Joint Commenters Generally Support DTV and DAB Participation in EAS.

The Commission asks whether DTV stations and digital radio stations should be required to participate in EAS and whether the warnings be carried on all program streams. *Notice* at ¶ 29. The Commission also queries whether radio and television receivers should be capable of being force-tuned to one programming stream during an emergency. *Notice* at ¶¶ 29-30. Joint Commenters generally support DTV and DAB stations' participation in the EAS programming as a natural extension of our public interest obligations. As discussed below, however, the Commission should not require the force-tuning of digital television broadcast streams.

As we have previously stated, Joint Commenters generally support extending EAS requirements to digital radio.³⁰ One of the benefits of introducing digital radio broadcasting using in-band-on-channel ("IBOC") technology is that EAS functionality will be fully preserved during the transition to digital radio, and with minimum disruption to all parties involved. This is because the primary mechanism for transmission of EAS information, the analog radio signal, continues to exist as a fundamental part of the hybrid IBOC signal. While it is possible that some secondary audio channels may evolve

²⁹ One means by which collaborative efforts may be coordinated is through the Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities. *See* Press Release, Department of Homeland Security to Lead Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities, July 23, 2004.

³⁰ In the Matter of Digital Audio Broadcasting Systems And Their Impact On the Terrestrial Radio Broadcast Service, MM Docket No. 99-325, Comments of NAB at 23-24, June 16, 2004.

into genuine alternatives to a station's main audio channel programming, so that mandating EAS availability on these channels would be proper, some supplementary services may deliver more focused programming, or data, or perhaps be made available only to subscribers. Thus, EAS information may not be suitable for these services. Accordingly, Joint Commenters urge the Commission to require EAS functionality on secondary audio services intended for the general public, but at this time not to extend this requirement to other services. As for EAS accessibility, Joint Commenters support the Commission's tentative conclusion that EAS signals be carried on the main audio channel portion of the digital audio stream; otherwise, listeners using IBOC receivers would receive EAS alerts only if they were in a weak signal (or otherwise reception impaired) area where the receiver had "blended to analog."

Digital television raises a separate set of technical issues. While Joint Commenters generally support extending EAS to DTV, in a multicast digital television environment, it is unnecessary to adopt a force-tuning requirement. *Notice* at ¶ 30. The Commission should give broadcasters the flexibility to alert the public, on all program streams, or alternatively, use advanced features in the Advanced Television System Committee's ("ATSC") standards, such as Directed Channel Change or Advanced Common Application Platform streaming text³¹ to allow broadcasters to redirect or alert viewers to the presence of EAS information on its other broadcast channels (*e.g.*, live coverage). No DTV sets currently in the marketplace, however, support these advanced

³¹ Directed Channel Change ("DCC") allows a broadcaster to transmit a trigger that will cause a DTV receiver to automatically tune to another program stream (or service) based on the consumer's settings in the DTV set. Advanced Common Application Platform ("ACAP") is a software environment that supports the creation and display of interactive services for digital television.

ATSC features. Additionally, the applicable ATSC standards do not provide guidance on how to use these features for emergency alerts. Therefore, the only viable option at this time is to provide alerts on *all* program streams. As with IBOC, these alerts should be limited only to channels that contain programming intended for the general public.

Further, in order to use the advance features necessary to redirect viewers to emergency information on other program streams, work is needed within the ATSC to define or give guidance to broadcasters, DTV set manufacturers and professional equipment manufacturers on how to implement emergency alerting. Even once these advance features are implemented in new DTV sets, there will be millions of legacy sets still in use that will not respond to the new alerting methodology. Broadcasters will still need the flexibility to provide alerts either on multiple program streams or by redirecting viewers to EAS information on another stream. In sum, the Commission should refrain from implementing any force-tuning requirements.

V. In Light of the Proposed EAS Changes, The Commission Must Finally Address The Problems of Cable Overrides.

Beginning in 1993, NAB formally asked the Commission to craft EAS regulations so that local viewers would maintain access to critical, timely, and updated information aired by local television stations during emergency conditions.³² Specifically, NAB

³² See Comments of NAB, FO Docket Nos. 91-301 and 91-171, filed November 12, 1993 at 14-16; NAB Petition for Partial Reconsideration, FO Docket Nos. 91-301 and 91-171, filed January 27, 1994; Comments of NAB, FO Docket Nos. 91-301 and 91-171, filed February 22, 1995; NAB Reply to Oppositions, FO Docket Nos. 91-301 and 91-171, filed March 6, 1995 at 4-9, Comments of NAB on Second Notice of Proposed Rulemaking, FO Docket Nos. 91-301 and 91-171, filed April 20, 1998, Reply Comments of NAB on Second Notice of Proposed Rulemaking, FO Docket Nos. 91-301 and 91-171, filed May 5, 1998. See also Letter from Edward O. Fritts, President, NAB, to Beverly Baker, Chief, FCC Compliance and Information Bureau, May 30, 1997; Letter from Edward O. Fritts, President, NAB, to Reed Hundt, Chairman, FCC, May 30, 1997; Letter from Edward O. Fritts, President, NAB, to Hon. James Lee Witt, Director, FEMA, May 31, 2000; Letter

petitioned the Commission to amend its rules to require “selective override” – that is, the FCC should mandate that cable operators use a simple filter system which enables a cable operator to omit certain channels selectively during an EAS interruption.³³ The cost of such a system for analog cable is incremental, with costs ranging from about \$10,000-15,000 per cable facility.

While the Rules do allow broadcasters to negotiate with local cable operators to use implement selective override, to date, the Commission has steadfastly refused to mandate only “selective override” of broadcast stations.³⁴ The Commission’s rationale is that the “record further suggests that because broadcast stations often serve a wide coverage area crossing hundreds of communities, they may not cover local emergencies that affect only a single community.” *Id.* at ¶ 13. However, the level of detailed emergency information provided by broadcasters far exceeds the “blue screen with text” offered by most cable operators. Broadcasters typically provide live news coverage of:

- Abducted children via the AMBER Alert system;
- Storm tracking of tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, wild fires, forest fires, mudslides, and warnings and watches of changing weather conditions;
- The status of any discharge of toxic gases, widespread power failures, industrial explosions, nuclear facility incidents, or civil disorder;

from Edward O. Fritts, President, NAB, to Hon. Greg Rohde, Assistant Secretary for Communications & Information, NTIA, July 18, 2000; and Letter from Edward O. Fritts, President, NAB, to Chairman Michael Powell, FCC, Aug. 11, 2004.

³³ NAB maintains that cable overrides violates federal law. Section 614(b)(3)(B) of the Communications Act *explicitly requires* that cable systems carrying television stations must “carry the entirety of the program schedule” of such stations, unless carriage of specific programming is prohibited under the Commission’s network nonduplication, syndicated program exclusivity or sports blackout rules; and Section 614(b)(3)(A) requires cable operators to carry “in its entirety . . . the primary video [and] accompanying audio . . . of each of the local commercial television stations are carried on a cable system.”

³⁴ Third Report and Order, FO Docket Nos. 91-171 and 91-301, rel. December 23, 1998.

- School closings, school schedule delays and school bus routing changes.

Thus, local signals provide more useful and in-depth emergency or related information than that which might be generated by an unattended, automated cable television headend. And should a cable system “override” a television station during a local or national emergency, *all viewers* (including the hearing-impaired who would be denied access to close-captioned news coverage) could be denied the critical and life-saving information detailed above. Surely, the intent of the EAS and FEMA is to empower people with accurate, up-to-the-minute information during emergency situations.

In addition to the selective override problems on analog cable, a new problem has surfaced with the cable industry’s rollout of digital cable. It appears that many broadcasters that have already negotiated selective override agreements on local cable operators’ analog tier are being advised by cable operators that it is impossible to implement selective override on the *digital tier* because of limitations in digital cable equipment. Through discussion with cable industry personnel, Joint Commenters have determined that the EAS function in digital cable equipment is implemented inside the set top box (“STB”) at the customer’s premises. When an emergency alert is initiated, data is sent to all the STBs in the cable system that causes the box to take some action to override the programming on all channels and display the emergency message. One manufacturer’s STB, Scientific Atlanta, places a banner over the portion of the video and display the emergency message text in the banner. Motorola Broadband’s STB, however, displays a full “blue screen” which obliterates the programming on every channel.³⁵ In

³⁵ This is accomplished by force-tuning the STB to an emergency channel on the cable system.

each case, the emergency information presented by the broadcast station is either partially or totally overridden, thereby providing less information for viewers of the on the digital tier of the cable system than viewers on the analog tier.³⁶

In the digital television era, the public can benefit from up-to-the-minute information supplied by specialized multicast channels or datacasting streams. For example, NBC has recently announced that it is gearing up to present a 24-hour weather channel in key parts of the country.³⁷ Branded Weather Plus, this dedicated channel provides instantaneous access to critical and timely information for local communities. Another example is through public televisions' pledge to allocate a portion of its digital spectrum for public warning information. It is an anathema that at a time when broadcasters are providing *more DTV programming*, viewers of digital cable are actually receiving *less useful* information, even less than they would receive through analog cable. Joint Commenters urge the Commission to revise its EAS rules to mandate only "selective override" of broadcast stations for both the digital and analog cable.

VI. Broadcasters Support FCC's Efforts to Enhance the Performance of the EAS During State and Local Emergencies, But Mandatory Requirements Will Not Improve Public Warning.

As discussed above in Section IV, broadcasters support many of the Commission's specific proposals to improve EAS. And while participation in state and local area EAS plans is voluntary, as a practical matter, nearly all broadcasters are full

³⁶ Joint Commenter's research has confirmed that it is possible to selectively override channels in the digital cable environment; however, requires very complicated manipulation of software. Indeed, one manufacturer, Motorola Broadband, is aware of the problem and has recently developed a software upgrade to make selective override simpler for the cable operator to implement.

³⁷ See http://www.nbcuni.com/About_NBC_Universal/Executive_Bio/burgess_brandon.shtml (last visited Oct. 29, 2004).

participants. A clear majority of broadcast stations directly monitor the NOAA Weather Radio (“NWR”) Specific Area Message Encoding (“SAME”) transmissions and relay those messages to their audience over the EAS.³⁸ The National Weather Service (“NWS”) originates about 80% of all EAS alerts, and approximately 90% of the public can monitor PEP stations.³⁹ Approximately three percent of the U.S., however, cannot receive a NWS signal.⁴⁰ The Commission seeks comment on whether it should adopt rules to require EAS participants to monitor NOAA Weather Radio. *Notice* at ¶ 26. The Commission, however, presents no evidence that broadcasters are, in any measure, deficient in monitoring a major source of EAS warnings. Because broadcasters routinely monitor NOAA Weather Radio, where available, additional regulation is unnecessary.

Further, this rulemaking follows the accumulation of a significant record in response to the Commission’s earlier proceedings in FO Docket Nos. 91-171 and 91-301. Based on this record, we disagree with the assertion in the *Notice* that the voluntary nature of the EAS “impairs the credibility of the entire EAS.” *Notice* at ¶ 24. We also respectfully disagree with the assertion that “at the state and local level the voluntary nature of EAS has resulted in an inconsistent application of EAS as a component of an

³⁸ Part 11 of the Commission’s Rules specifically provide that EAS codes must be compatible with NWR-SAME. *See* 47 C.F.R. § 11.31.

³⁹ *See PPW Report* at 3.

⁴⁰ *See* Homeland Security Leverages NOAA All-Hazards Network for Alerts and Warnings, DHS Press Office, June 17, 2004, at <http://www.dhs.gov/dhspublic/display?theme=43&content=3724&print=true> (last visited Oct. 29, 2004).

overall public and warning system for the American public.”⁴¹ Simply put, the voluntary nature of EAS is not the cause of the underlying deficiencies of public warning, rather insufficient funding for state and local emergency planners is the root of the problem.

One cannot merely “fix” the EAS system through broadcaster mandates alone. Simple, yet critical issues, such as a local emergency manager knowing what steps are necessary to activate an EAS, and which entities to call to trigger an EAS or public warning, remain unresolved in many jurisdictions. Again, state and local plans need an adequate funding source to ensure that all jurisdictions are able to meet the public warning needs and first responder’s needs of their communities. And local plans can be best tailored to reflect the unique and diverse needs of each community.

The Commission requests comment on a series of requirements for state and local use of EAS, including mandatory use of EAS codes, standards for activation, and requiring broadcasters to “make their facilities available to local emergency managers.” *Notice* at ¶ 24. Joint Commenters strongly urge the Commission to categorically reject these proposals on several grounds, discussed in detail below. First, the Commission lacks the authority to require state and local activation of the EAS. Second, a national standard for state and local activation of the EAS is wholly unworkable, given the geographic diversity of the U.S. and economic disparity amongst various state and local emergency planners. Third, the Commission does not have the authority to require local broadcasters to make their facilities available to local emergency managers.

⁴¹ Written Statement of James A. Dailey, Director, Office of Homeland Security, Enforcement Bureau, FCC, Before the U.S. House of Representatives Select Committee on Homeland Security, Sept. 22, 2004 at 4.

A. The Commission Lacks Authority to Mandate State and Local EAS Participation.

In proposing mandatory requirements for state and local EAS warnings, the Commission relies upon Section 706 as a grant of authority to regulate emergency broadcasting. *Notice* at ¶ 10. This grant, however, applies only to the regulation of broadcasts of *national* emergencies. The language of Section 706(c) specifically states that, “[u]pon proclamation by the President that there exists war or a threat of war, or a state of public peril or disaster or other national emergency,” the President may deem it necessary to alter the rules that otherwise apply to broadcasting stations in order to protect the national security or defense. 47 U.S.C. § 606. Thus, Section 706 is silent as to the federal government’s authority to regulate state and local, or non-national emergency warnings.

Prior exercises of the federal government’s power to regulate emergency broadcasts demonstrate the national nature of this power.⁴² In delegating to the Commission the preparation of national emergency plans covering common carriers, broadcasting facilities, and safety and special radio services, an Executive Order by President John F. Kennedy stated that “[t]hese plans and programs shall be designed to develop a state of readiness in these areas with respect to all conditions of *national emergency*, including attack upon the United States” (emphasis added).⁴³ Similarly, an Executive Order by President Harry Truman delegated the authority vested in the

⁴² See Exec. Order No. 10,312, 16 Fed. Reg. 12,452 (Dec. 10, 1951); Exec. Order No. 11,092, 28 Fed. Reg. 1,847 (Feb. 26, 1963) (emphasis added); see also Exec. Order No. 11,490, 34 Fed. Reg. 17,567 (Oct. 28, 1969); Exec. Order No. 12,472, 49 Fed. Reg. 13,471 (April 3, 1984).

⁴³ 34 Fed. Reg. 17,567.

President by Section 706(c) to the Commission, in order to minimize the possibility that electronic radiations of broadcasting stations might aid the navigation of “devices capable of direct attack upon the United States.”⁴⁴ Again, the concern was with a *national* state of emergency. Further, in assigning emergency preparedness duties to the various federal departments and agencies, President Richard Nixon’s Executive Order made repeated mention of the *national* plan needed for *national* security and *national* preparedness.⁴⁵

The national nature of the federal government’s authority to regulate emergency broadcasting can also be seen through an Executive Order by President Ronald Reagan establishing a National Communications System (“NCS”).⁴⁶ The Order established that the NCS Committee of Principals would include “representatives from those Federal departments, agencies or other entities, designated by the President, which lease or own telecommunications facilities or services of significance to national security or emergency preparedness.”⁴⁷ The Order also provided that there would be an NCS Manager, whose duties would include developing procedures for evaluating “the capability of the Nation’s telecommunications resources to meet national security or emergency preparedness telecommunications requirements.”⁴⁸ The emphasis in creating the NCS was on a *national* telecommunications plan for *national* emergencies.

⁴⁴ 16 Fed. Reg. 12,452.

⁴⁵ 34 Fed. Reg. 17,567 (emphasis added).

⁴⁶ 49 Fed. Reg. 13,471.

⁴⁷ *Id.* at 13,471-72. Under the Executive Order, the Committee would serve as a forum in which Committee members could review and evaluate *national* security or emergency preparedness telecommunications programs

⁴⁸ *Id.*

Because the Commission lacks the authority under Section 706 to mandate state and local EAS plans, state and local participation in EAS and other similar systems has always been voluntary. The President has also recognized the voluntary nature of state and local EAS warnings – in ordering the NCS to aid the President in the emergency preparedness of telecommunications systems, President Reagan established the non-wartime emergency functions of the National Security Council.⁴⁹ Specifically, he stated that the National Security Council shall aid the President in developing a policy regarding the federal government’s use of this country’s telecommunications resources, but similar plans for state and local governments would only occur “*upon request*, to the extent practicable and otherwise consistent with law.”⁵⁰ Likewise, President Reagan required the Director of the FEMA to help state and local governments plan to satisfy their national security and emergency preparedness telecommunications requirements, “*upon request* and to the extent consistent with law.”⁵¹ Thus, while the Executive Office has offered to facilitate state and local emergency planning, it did not contemplate extending mandatory requirements beyond the national emergency warning.⁵²

⁴⁹ *Id.* at 13,474.

⁵⁰ *Id.*

⁵¹ *Id.* at 13,475 (emphasis added). Indeed, FEMA recognizes the permissive nature of state and local EAS warnings. Their handbook specifically states that EAS “*may be* used to broadcast information on disasters or emergencies. Such use is encouraged especially for weather warnings and other natural and technological disaster information.” Federal Emergency Management Agency (“FEMA”) National Warning System Operations Manual, March 30, 2001 at 2-5 (emphasis added).

⁵² Even the Commission’s authority over the national component of EAS does not bestow it the discretion to exercise its powers unilaterally. As evidenced by President Kennedy’s Executive Order, the Commission was required to prepare national emergency plans under the policy guidance of the Director of the Office of Emergency Planning. 28 Fed. Reg. 1,847. Although the Commission must develop and implement national emergency

Nor can the Commission parlay Section 706, which is limited to national warnings, into a plenary authority to regulate emergency broadcasting under the more general provisions of the Act. *See Notice* at ¶ 10. Sections 1, 4(i) and (o), and 303(r) of Communications Act are general grants of authority, and do not authorize the Commission to adopt specific programming content regulations, such as the carriage of state and local emergency warnings. As the D.C. Circuit held, such necessary in the “public interest” provisions, including that found in Section 303(r), “simply cannot carry the weight” of authorizing regulations of broadcast content “if the agency does not otherwise have authority to promulgate the regulations in issue.” *Motion Picture Association of America v. FCC*, 309 F.3d 796, 806 (D.C. Cir. 2002). Likewise, “[t]he FCC must act pursuant to delegated authority before any ‘public interest’ inquiry is made,” *Id.* In this instance, however, there is no provision in the Act authorizing rules for mandatory carriage of state and local EAS messages. Thus, the Commission cannot cite Section 303(r) as the basis for regulating state and local EAS warnings.

Similarly, the Commission lacks authority to mandate state and local EAS warnings under Section 4(i) of the Act, which allows the FCC to adopt regulations “reasonably ancillary” to exercise of the powers the Act does grant. *See MPAA*, 309 F.3d at 806 (discussing 47 U.S.C. §154(i)). Given the absence of statutory authority over state

plans for the communications industry, modifications to the Commission’s emergency plans were required to be made “in accordance with policy determinations by the President.” *Id.* Further, an Executive Order by President Nixon stated that the Department of Defense must help the Office of Emergency Preparedness in developing plans for communications facilities in the event of an emergency, including developing strategic locations for those industries that are vital to national security. 34 Fed. Reg. 17,567. The National Security Council would also play a role, under the Order by President Reagan, in providing policy direction for the President’s exercise of his war powers under Section 706 of the Communications Act. 49 Fed. Reg. at 13,473-74.

and local EAS warnings, the Commission cannot rely on 4(i) as an independent basis for content regulation for non-national emergency warnings.

Nor does Section 4(o) of the Act authorize the regulation of state and local emergencies:

- (o) For the purpose of obtaining the maximum effectiveness from the use of radio and wire communications in connection with safety of life and property, the Commission *shall investigate and study all phases* of the problem and the best methods of obtaining the cooperation and coordination of these systems. 47 U.S.C. § 154 (emphasis added).

The plain terms of this provision allow the Commission to investigate and study methods for improving state and local emergency warnings. By no means, however, does this section confer broad authority to *act* on any findings the Commission may have determined in the course of its investigation. Where a specific section of the Communications Act only directs the FCC to study an issue, the general provisions of the Act (including § 1) do not independently delegate such authority to promulgate rules on the basis of such studies. *See MPAA*, 309 F.3d at 807 (concurring opinion on Judge Henderson). Nor will the courts defer to agency regulations that contradict the plain meaning of a statute. *See, e.g., Sutton v. United Airlines*, 527 U.S. 471, 482 (1992). Simply stated, Section 4(o) does not allow the Commission to promulgate new programming regulations for state and local emergencies. Moreover, the plain terms of Section 4(o) direct the Commission to study the “best methods of obtaining the *cooperation and coordination* of these systems.” 47 U.S.C. §154 (emphasis added). Thus, in lieu of regulatory mandates, the Commission should instead focus on how, through *voluntary cooperation and coordination*, public warnings can be enhanced.

Finally, Section 1 of the Communications Act does not bestow the Commission with authority over the programming content of non-national emergency warnings.

Indeed, the Supreme Court has stated “[o]ne of the reasons why § 1 [of the Communications Act] has not been construed to allow the FCC to regulate programming content is because such regulations invariably raise First Amendment issues,” such as regulating the content of state and local emergency warnings. *Turner Broadcasting System, Inc., v. FCC*, 512 U.S. 622, 651 (1994); *see also CBS v. Democratic National Committee*, 412 U.S. 94, 126 (1973). Thus, the Commission may not rely on Sections 1, 4(i), 4(o), 303(r) or 706 as the basis for regulating the program content of state and local emergencies, be it via live news coverage or through activation of the EAS.

B. State and Local Warning Mandates Will Not Improve EAS.

In September, the U.S. House of Representatives held a hearing on public warnings. In his testimony before Congress, Reynold Hoover, Director, Office of National Security Coordination, FEMA, DHS, stated there is “no single solution set that will meet everyone’s alert and warning requirements.”⁵³ Peter Ward, an active participant in emergency warning and PPW, also testified that “current warning systems tend to warn more people not at risk than those directly at risk, dulling their response to future warnings.”⁵⁴ Joint Commenters agree. A national standard for state and local activation of the EAS is wholly unworkable, given the geographic diversity of the U.S. and economic disparity amongst various state and local emergency planners. For example, mandatory statewide EAS warning of an earthquake in Northern California may unduly alert those in Southern California. Alternatively, without adequate funding for an

⁵³ Reynold Hoover Testimony at 5.

⁵⁴ Statement of Peter Ward, Before the Select Homeland Security Subcommittee on Emergency Preparedness and Response House of Representatives on Public Alert and Warning, Sept. 22, 2004 at 1.

EOC or Commission guidance as to what necessitates initiating an EAS, emergency planners may err on the side of caution and choose to automatically trigger broad EAS warnings, such as NOAA weather warning updates.

The inherent risk behind regulating state and local emergency warnings is overuse. Broad mandates run the risk of overshadowing the “targeting” characteristics of the EAS. For emergencies affecting only a limited geographic area, the EAS system is designed to be capable of passing on alerts only to those localities where such emergency information is relevant to the safety of local residents. Because a revised warning system employing new digital capabilities, including digital datacasting, may eventually provide for greater reliability of information and could pinpoint the dissemination of emergency alerts on a community-by-community basis, it is critical for the Commission to encourage the targeting, and not the broadening of the dissemination of emergency information.

In lieu of unspecified mandates, the Commission should encourage private-public cooperation in enhancing emergency warning. Undeniably, MSRC recognized that one of the best methods for ensuring robust, yet targeted emergency warning was the establishment of jurisdiction/market cooperatives to assure delivery of local government emergency messages. *MSRC Report* at 19. Joint Commenters agree. What is in the best public interest is continued fostering and development of cooperative agreements, such as the recently announced emergency public communication system for New York City, which is modeled on the federal system, and allows the mayor to interrupt broadcasts to make two-minute emergency announcements.⁵⁵ Using the existing infrastructure of EAS,

⁵⁵ See *New York City Gets Emergency Radio/TV System*, Jennifer Steinhauer, New York Times, Sept. 24, 2004, <http://www.nytimes.com/2004/09/24/nyregion/24mayor.html?ex=1097055627&ei=1&en=f26c6699e9d0fef0>, last visited Oct. 29, 2004.

the mayor can, from an automobile, instantaneously address millions of local listeners and viewers. In addition, WFSU-TV/FM in Tallahassee has an agreement with Florida's EOC to carry emergency programming/press conferences live from the EOC. *MSRC Report* at 40. As MSRC aptly stated, "[w]e recognize that true success can only be achieved when cooperation at the local level becomes widespread and the resulting creative solutions begin to 'bubble up' from government and industry practitioners." *MSRC Report* at 19.

DHS Secretary Tom Ridge also recognized that voluntary cooperation yields the best results. He articulated that "[t]he key to disaster recovery, and much more importantly, *the key to prevention* is mutual cooperation and coordination; sharing resources – equipment, information, supplies, training and people."⁵⁶ The benefit of locally-arranged agreements is that they allow flexibility for local and state emergency planners to tailor and target emergency warnings to the public they serve. PPW states that "[m]ost warning experts agree that use of EAS by civil authorities needs to increase since this is where both the authority and responsibility for issuing local warnings really rests." *PPW Report* at 18. Therefore, the best method for ensuring timely delivery of emergency alerts is to strengthen the coordination between civil authorities and local broadcasters so that they can tailor their messages to serve their local communities.

⁵⁶ Remarks of Secretary Tom Ridge at the Technologies for Public Safety in Critical Incident Response Conference and Exposition 2004, <http://www.dhs.gov/dhspublic/display?theme=44&content=4045&print=true> (emphasis added), last visited Oct. 29, 2004.

C. The Commission Should Not Adopt Rules Requiring Broadcasters to Turn Over Stations to Local Emergency Managers.

The Commission queries whether it should adopt rules to require broadcasters to make their facilities available to local emergency managers during emergencies. *Notice* at ¶ 24. The Commission, however, provides no reasoning that supports such an extreme intrusion into broadcaster operation. Notably absent from the record is *any* discussion of state and local emergency managers' failure to obtain broadcaster cooperation in emergency warning. Broadcasters thus strongly oppose *carte blanche* mandates to turn over facilities to local emergency managers.

In delegating his authority under Section 707(c) to the Commission, President Truman set clear limits on the Commission's authority.⁵⁷ He stated that the occurrence of an emergency does not permit the Commission to exercise any authority over the *content* of station programs in the name of an emergency, nor does it allow the Commission to *take over and use any radio station or remove any radio station's equipment*.⁵⁸ Nothing in any of the subsequent series of Executive Orders suggests a reversal in this policy. Because the Commission lacks authority to direct the content of emergency broadcasts, the Commission therefore cannot purport to delegate that authority to local emergency officials.

Nor does the Act contemplate the FCC relinquishing its general regulatory authority over broadcast transmissions to a plethora of local officials. Section 301 of the Communications Act specifies that "[i]t is the purpose of this Act, among other things, to

⁵⁷ 16 Fed. Reg. 12,452.

⁵⁸ *Id.* (emphasis added).

maintain the control of the United States *over all the channels of radio transmission*. 47 U.S.C. § 301 (emphasis added). The courts have consequently recognized the FCC’s “exclusive” control over technical matters associated with the transmissions of signals, *see Head v. New Mexico Board of Examiners in Optometry*, 374 U.S. 424 (1963), as well as the FCC’s power over broader “public interest issues including ownership and licensing. *See National Broadcasting Co. v. United States*, 319 U.S. 190, 215-16 (1940) (the “Commission’s powers are not limited to the engineering and technical aspects of regulation of radio communication”).⁵⁹ Thus, the Commission cannot endow upon local emergency officials the authority to “control” either the “channels of radio transmission,” 47 U.S.C. § 301, or the content of emergency broadcasts.

Moreover, mandatory relinquishment of broadcast facilities raises constitutional concerns. As the D.C. Circuit has observed, “the character of the governmental action depends both on whether the government has legitimized a physical occupation of the property, and whether the regulation has a legitimate public purpose.” *District Intown Properties Limited Partnership v. District of Columbia*, 198 F.3d 874,879 (D.C. Cir. 1999) (internal citations omitted). The Commission, however, proposes no basis for legitimizing government intrusion upon broadcast facilities, nor articulates any parameters under which local emergency officials could legitimize their occupation of broadcast stations.

Any requirement for a broadcaster to relinquish control of airwaves also raises numerous practical concerns. For example, who has authority to demand access? How

⁵⁹ *See also Allen B. Dumont Laboratories, Inc., et al. v. Carroll, et al.*, 184 F.2d 153, 156 (1950) (in a case striking down state censorship of motion pictures aired on television, the court held that “[w]e think it is clear that Congress has occupied fully the field of television regulation and that the field is no longer open to the States.”).

can a broadcaster ensure that the person is a proper authority, and thus has not gained access to maliciously interfere with station operations or terrorize the public? What happens if the emergency manager cuts into live news coverage of a weather event and thus inadvertently deprives the audience of critical information? What if several emergency managers disseminate different or conflicting information on various local stations? For how long can a local emergency manager demand access? What checks and balances are in place to ensure that this is not an abuse of authority? The list of unanswered questions is immeasurable, and the potential risk to the viewing and listening community is great.

In sharp contrast to an undefined requirement to turn over broadcast facilities to local emergency managers, the Commission should instead encourage local broadcasters and state and local officials to partner, such as the aforementioned New York City and Florida agreements. A further example of appropriate tailoring for state officials to use broadcasting as a means of dissemination is the highly successful *AMBER PLAN*:

America's Missing: Broadcast Emergency Response –A Law Enforcement and Media Guide. Named after 9 year-old Amber Hagerman, who was kidnapped and brutally murdered in Arlington, Texas, *AMBER PLAN*'s goal is to assist cities and towns with creating their own emergency alert plans for abducted children. The first *AMBER PLAN* was created in 1996 by the Association of Radio Managers with the assistance of law enforcement agencies across the Dallas/Ft. Worth Area. Today, with over 49 state plans and 50 local and regional plans, over 161 children have been recovered.⁶⁰

⁶⁰http://www.ncmec.org/missingkids/servlet/PageServlet?LanguageCountry=en_US&PageId=991 (last visited Oct. 29, 2004).

AMBER PLAN, however, is carefully crafted to (1) tailor an appropriate message to a targeted community and to (2) avoid overuse. These plans typically require the following criteria: the child is a minor, law enforcement has confirmed the child has been *abducted* (and is not merely missing) and the child is in danger of serious bodily harm or death. Moreover, access for activating the AMBER alerts is strictly controlled, and while the Commission has allowed state and local government use of the EAS for this purpose, approval is only granted after full FCC review of a plan's criteria and procedures.

Were the Commission to encourage voluntary cooperative plans between broadcasters and state and local officials for use of broadcaster facilities, it would still require Commission oversight, for in evaluating any public warning system, there must be adequate checks and balances to ensure that the American public will not be subjected to continuous interruptions of programming that have no impact on their safety due to overzealous or careless state/local officials.

VII. Conclusion.

For the above-mentioned reasons, while Joint Commenters generally support efforts to continue to improve EAS, including its extension to digital television and digital radio, mandatory requirements for state and local EAS warnings will not “fix” the EAS deficiencies. It is through broadcasters’ *voluntary cooperation* and a strengthening of state and local emergency plans that the government can best enhance public warnings. Joint Commenters look forward to continuing its partnership with government.

Respectfully submitted,

NATIONAL ASSOCIATION OF BROADCASTERS



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October 29, 2004

APPENDIX I



Are You READY?

A Step-by-Step Emergency Preparedness
Guidebook to Prepare Your **Local Community**

Get a Kit
Make a Plan
Be Informed



Homeland
Security

National Association of
NAB
BROADCASTERS

PREPARING MAKES SENSE. That's the idea behind a partnership between the National Association of Broadcasters and the U.S. Department of Homeland Security. The goal of the effort: to enlist America's local radio and television stations in a nationwide campaign to ensure that people in their communities are taking the necessary steps to prepare for natural disasters, terrorist attacks and other threats.

In this half of the *Are You Ready?* guidebook, we offer information and suggestions for local broadcasters as they reach out to their audiences with the preparedness message. The idea is not to alarm people or to create undue fear, but to show that preparing for these types of events is a natural thing for individuals and families to do.

The guidebook also provides information on how stations can help their communities both during and after a crisis—for example, by keeping everyone informed and by supporting local relief efforts.

We applaud your station's efforts to make sure Americans are prepared for the unexpected. And we encourage you to visit www.ready.gov for more information on preparedness issues for families and entire communities.

Eddie Fritts
President
National Association of Broadcasters

Tom Ridge
Secretary
U.S. Department
of Homeland Security

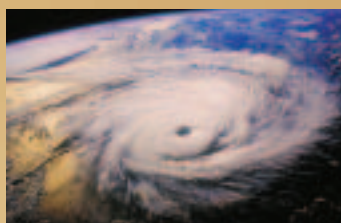


Are You Ready?

America's local broadcasters work hard to keep people in their communities informed about natural and man-made threats. More importantly, local radio and television stations regularly provide life-saving information about how individuals, families and entire neighborhoods can prepare for crisis situations.

Now it's time to do more.

The U.S. Department of Homeland Security launched a nationwide *Ready* campaign to ensure that more Americans know how to be prepared in case of emergency situations, including a possible terrorist attack. Local broadcasters can play a vital role in the campaign by coordinating their messages with the national effort and, at the same time, providing preparedness information tailored to their local communities.



Ready.gov

Your Preparedness Resource

Some of the information in this guidebook has been adapted from materials available on Ready.gov. A website created by the U.S. Department of Homeland Security, Ready.gov provides citizens with guidance about how to prepare for, and respond to, a variety of disasters, including potential terrorist attacks.

Local broadcasters are encouraged to visit www.ready.gov and to encourage their viewing and listening audiences to do the same. Those without Internet access can call 1-800-BE-READY for a free brochure. Stations can link to www.ready.gov. Downloadable printed materials are available on the website to customize with station logos to distribute throughout their communities.

Family Priority

Before Disaster Strikes

Making Preparedness a Priority

Americans don't have to wait for a crisis to happen to act. Experience has shown again and again that lives can be saved, damage to property can be reduced, and economic recovery after a disaster can happen much faster if individuals, families and entire communities make the proper preparations before a disaster strikes. Local broadcasters can help by educating people about how to get ready now.



Preparedness Steps for Individuals and Families

The Department of Homeland Security has created a common-sense framework for educating Americans about citizen preparedness for natural and man-made emergencies. The framework includes three steps as follows:

STEP ONE: Get a Kit of Emergency Supplies

STEP TWO: Make a Plan for What You Will Do in an Emergency

STEP THREE: Be Informed About What Might Happen

One of the most important ways in which local broadcasters can support the national *Ready* campaign is by educating their audiences about the three steps, which are described in the following pages.

STEP ONE:

Get a Kit of Emergency Supplies.

In the event of an emergency, people should be prepared to improvise and use whatever they have on hand to make it on their own for at least three days, maybe longer.

While there are many things that might make local residents more comfortable, they should think first about fresh water, food and clean air.

WATER. People will need a gallon of water per person per day – and maybe more for children, nursing mothers and anyone who is sick. Water should be stored in tight, clean plastic containers, such as soft drink bottles. Be sure to keep at least a three-day supply of water per person.

FOOD. People should include in their kits canned and dried foods that are easy to store and prepare. Examples include: ready-to-eat canned meats, fruits and vegetables; protein or fruit bars; dry cereal or granola; crackers; and canned juices. Remind residents to pack a manual can opener and eating utensils.

CLEAN AIR. Many potential terrorist attacks could send tiny microscopic “junk” into the air, so people should consider a variety of ways to create a barrier between themselves and potentially contaminated air. People may want to consider filter masks, which are readily available in local hardware stores. Alternatively, if it doesn’t impede evacuation, people may consider covering their nose and mouth with two to three layers of a cotton

t-shirt, handkerchief or towel. Last but not least, residents should be sure to have duct tape and heavyweight garbage bags or plastic sheeting that can be used to seal windows and doors, if needed to create a barrier to block out any potential contamination outside.

OTHER NEEDS. If your community is in a cold-weather climate, remind people to include warm clothes and a sleeping bag for each member of the family. They will also want to assemble a first aid kit so they can treat minor injuries. And, they should be sure to include a flashlight, battery-powered radio, extra batteries, prescription medications, baby needs and other items.

According to the Department of Homeland Security, people should consider putting together two emergency kits. In one, they should put everything needed to stay where they are and make it on their own. The other should be a lightweight, smaller version they can keep in their cars or take with them if they have to get away.



STEP TWO:

Make a Plan for What You Will Do in an Emergency.

Depending on the circumstances and the nature of the emergency, the first important decision for people is deciding whether to stay or go. They should understand and plan for both possibilities, using common sense and available information to determine if there is immediate danger.

DEVELOP A FAMILY COMMUNICATION PLAN.

Families may not be together when disaster strikes, so they will need to plan how they will contact one another and review what they will do in different situations. People should consider a plan where each family member calls, or e-mails, the same friend or relative in the event of an emergency. It may be easier to make a long-distance phone call than to call across town, so an out-of-town contact may be in a better position to communicate among separated family members. Family members may have trouble getting through, or the phone system may be down altogether, but they should be patient.

STAYING PUT. There are circumstances when staying put and creating a barrier to block potentially contaminated air outside, a process known as “shelter-in-place,” can be a matter of survival. People should choose an



Getting Kids Involved

Children can play a starring role in your community's preparedness efforts. By initiating family conversations about emergency supply kits, communication plans and other activities, kids can help make sure that their families are ready for any crisis. Here are a few tips for getting kids involved:

Sign up station talent to speak to school groups about preparedness issues. In school appearances with police, fire and other emergency officials, show students the components of a family emergency kit. Encourage them to talk to their parents about how to plan for the unexpected.

Air a Disaster Action Quiz for Kids. Produce a quiz about disaster preparedness for airing during children's programming. Ask questions like: "What's different about 'nonperishable food'? A) It doesn't taste good. B) It's poisonous. C) It can last a long time without being refrigerated. D) It doesn't have chocolate chips." Offer prizes for kids who call or send in the right answers.

Organize a Family "Get Ready" Fair. Work with police and emergency officials, the American Red Cross and station sponsors to organize a family-oriented event where people can get information about how to prepare for crisis situations. Have games, prizes and informational materials for kids and grown-ups alike.

For more information, go to **"Ready for Kids"** on www.ready.gov or the Federal Emergency Management Agency website, **"FEMA for Kids"** at www.fema.gov/kids/.

interior room or one with as few windows and doors as possible. They should consider pre-cutting plastic sheeting to seal windows, doors and air vents. Each piece should be several inches larger than the covered space so that it can be sealed flat against the wall with duct tape. Residents should label each piece with the location of where it fits.

If the air is badly contaminated, local authorities may instruct people to seal the room. People should quickly bring family and pets inside, lock doors, and close windows, air vents and fireplace dampers. In addition, they should immediately turn off air conditioning, forced-air heating systems, exhaust fans and clothes dryers. Residents should be advised to take their emergency supplies and go into the room they have designated. Then they can seal all windows, doors and vents with plastic sheeting and duct tape, while watching TV, listening to the radio or checking the Internet for instructions. It is important to note that sealing the room is a short-term protective measure.

GETTING AWAY. Families should plan in advance how they will assemble and anticipate where to go. They may want to choose several destinations in different directions so they have options in an emergency. If they have a car, they should keep at least a half tank of gas in it at all times. Broadcasters should advise residents to become familiar with alternate routes as well as other means of transportation out of the area. If people do not have a car, they need to plan how to leave the area. Whether they are in a car or not, people should take their emergency supply kit and lock the door behind them. If they believe the air may be contaminated, they should drive with windows and vents closed and keep the air

conditioning and heater turned off, while listening to the radio for instructions.

IN THE COMMUNITY. Schools, day-care providers, workplaces, neighborhoods and apartment buildings, like individuals and families, should all have site-specific emergency plans. People should ask about plans at the places where their family spends time, including work, school and daycare. They may also want to talk to their neighbors about how to work together in the event of an emergency.

STEP THREE: **Be Informed About What Might Happen.**

Some of the things people can do to prepare for the unexpected, such as assembling a supply kit and developing a family communication plan, are the same for both natural and man-made emergencies. However, there are important differences between natural disasters and terrorist threats – and differences among the potential terrorist threats themselves – that will impact the decisions people make and the actions they take.

NATURAL DISASTERS include wildfires, hurricanes, floods, tornadoes and other weather-related events that often force people to evacuate their homes.

A BIOLOGICAL ATTACK is the deliberate release of germs or other substances that can make people sick. These agents generally do harm when inhaled, eaten or when they enter the body through a cut in the skin.

A CHEMICAL ATTACK is the deliberate release of a toxic gas, liquid or solid that can poison people and the environment.

A NUCLEAR BLAST is an explosion with intense light and heat, a damaging pressure wave and widespread radioactive material that can contaminate the air, water and ground surfaces for miles around.

A RADIATION THREAT or “dirty bomb” is the use of common explosives to spread radioactive materials over a targeted area.

In responding to crises involving these and other threats, people should make every effort to follow instructions received from authorities on the scene. Above all, people should stay calm, be patient and think before they act.



Preparedness Steps for Communities

Individuals and families should know that they are not alone in preparing for disaster situations. Entire communities need to come together to make sure they are doing all they can to get ready. Preparedness efforts at the community level should include four key steps as follows:

STEP ONE: **Pull Together.**

Perhaps the most important step a community can take to protect itself before disaster strikes is to pull together. Citizens, businesses, government, the media and other sectors of the community all should be involved in efforts to determine the community’s vulnerability to potential hazards and to target resources where they are most needed.

STEP TWO: **Identify Hazards and Vulnerabilities.**

As local residents, government, business and civic leaders come together to talk about disaster preparedness, a key task is to identify the hazards that threaten your community and then to determine what segments of the community are most at risk. This means gathering information about the location and vulnerability

About Citizen Corps

One way many American communities are coming together around preparedness issues is by forming Citizen Corps Councils. Citizen Corps is a program coordinated by the Department of Homeland Security to engage all Americans in “hometown security.”

Citizen Corps provides opportunities for people to participate in a range of measures to make their families, their homes and their communities safer from the threats of crime, terrorism and disasters of all kinds. In just two years, Citizen Corps Councils have already been organized in more than 1,300 local communities throughout the country.

Visit www.citizencorps.gov to find the Citizen Corps Council nearest you. If your community does not currently have a Council, get in touch with your state-level contact, listed at www.citizencorps.gov/citizencorps/statepoc.do.

of commercial buildings, residential housing, transportation systems, and public utilities such as sewer, water and power.

Many communities use computer-based Geographic Information Systems (GIS) to “map” potential hazards and identify the community’s vulnerabilities in the event of a disaster. By providing detailed information about where a community can expect to suffer the most damage during a disaster, GIS can be a critical tool in shaping a community’s disaster preparedness plans.

STEP THREE: Plan for the Worst.

With a better idea of its vulnerabilities and where it faces the greatest risk, a community is able to target needed resources to mitigation measures that can help limit the impact of a natural

disaster. An important part of mitigation planning is setting priorities – i.e., making decisions about what resources are most critical to the community and its residents and what steps can be taken now to protect those resources in the event of a disaster.



An additional task is to determine what your community can do now to ensure that new construction and future growth occur in a way that minimizes potential losses in a disaster. This means strengthening and enforcing building codes and creating growth management plans that ensure your community expands into safer areas in the future. Also, it is important to help communicate your

community plan to the public. People need to know what to do and what might be asked of them during emergencies. Broadcasters are in a unique position to help communicate emergency plans.

STEP FOUR: Generate Community Interest.

In addition to working with local partners on preparedness issues, broadcasters can play a paramount role in generating and maintaining community interest in the effort.

Stations will be performing an important community service simply by raising the issue that the community needs to be better prepared. Broadcasters can help by drawing attention to opportunities for public involvement in the community’s disaster planning and by asking questions of local officials about what they are doing to make sure the community is ready for anything.



Ideas For Stations

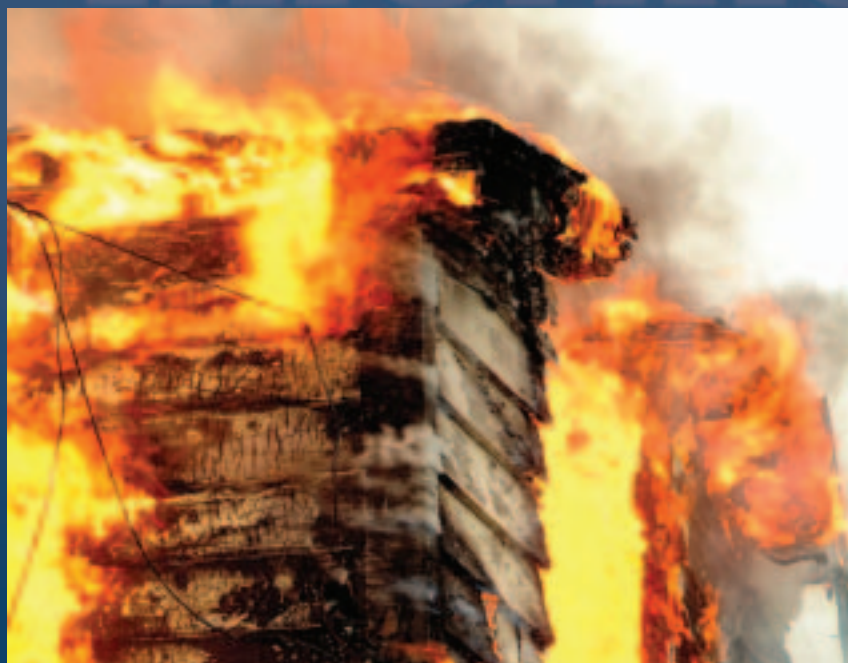
- Produce a news series on the three steps that families can take to prepare for disasters – assembling an emergency kit, making a plan and staying informed.
- Profile one or more local families that are preparing for disasters with emergency kits, family communication plans and other strategies.
- Host a town hall meeting on preparedness in your community. Invite elected leaders, local American Red Cross, as well as fire, police and other emergency officials.
- Produce a news report or series on the steps that local businesses and other institutions – from daycare centers and schools to nursing homes and hospitals – are taking to prepare for disasters.
- Link your station website to the Department of Homeland Security’s site, www.ready.gov, and promote the site in your reporting on preparedness issues.
- Download and customize the Department of Homeland Security’s *Ready* brochure at www.ready.gov with your own logo for distribution at station events.
- Give your audience the *America Prepared* preparedness quiz, available at www.americaprepared.org.
- Interview police, fire and other emergency officials about the threats to your community – and steps that individuals, families and entire neighborhoods can take to prepare.
- Produce a news series on the types of natural disasters that pose the greatest threat to your community – and what’s being done to prepare.
- Produce a news series on the preparedness implications of different types of terrorist threats – from biological and chemical attacks to nuclear blasts.
- Highlight opportunities for the public to get involved in local disaster preparedness efforts – through Citizen Corps Councils and other activities.
- Broadcast information about what areas of the community are most at risk – for example, low-lying areas in the event of flooding or government buildings and other public places in the event of terror attacks. Find out what’s being done to prepare these locations for disasters and minimize potential losses.
- Air live broadcasts, stand-ups or promotions from local retailers to highlight the kinds of emergency supplies people might need and where your audience can go to purchase them.
- Produce a news report or series on the steps utilities and local transportation systems are taking to strengthen security.
- Interview hospital and government health officials about ongoing preparations to prepare for major events that may require care for large numbers of people.
- Provide information about how individuals with disabilities, as well as the elderly, can prepare – for example, by creating a support network to help in an emergency.
- Air PSAs produced by the Department of Homeland Security on readiness and disaster preparedness (see page 12 for information on what’s available).

Keep Community Informed

When Disaster Strikes

Keeping Your Community Informed

A local broadcaster's most important role during an emergency situation is to stay on the air, if possible, and to provide people with the information they need to get through it. It is critical to plan what your station will do in the event of a disaster before the disaster strikes. You don't want to be caught off guard or be scrambling for answers to important questions while your community and its residents are at risk.



Perhaps the best approach to planning what your station will do when disaster strikes is to coordinate your plans with the local or state office of emergency management. Emergency officials, police, fire and other local agencies that are involved in disaster-response activities should see broadcasters as a valued partner in communicating important messages and information to the public.

The following five steps will help your station assume a leadership role in keeping your community informed in the event of a crisis.

STEP ONE:

Make Contact Before a Disaster.

Your first step is to contact the local or state office of emergency management to find out how you can be of service when disaster strikes.

You may want to encourage emergency management officials to convene a meeting of a group of local broadcasters to make sure everyone has the same information and is prepared to help. You may want to organize such a meeting yourself or work with your local Citizen Corps Council to organize it. The simple act of initiating contact on this important topic will enhance your station's reputation as an institution that cares about the local community.

STEP TWO:

Gather Information.

What information does your station need to help your community cope? You'll need information on evacuation routes, basic survival and safety tips, plans for temporary shelters or housing, and where people can go for medical care – anything you can think of that might be of use to local residents when disaster strikes (see sidebar, “What People Need to Know,” for more).

While you are talking to emergency officials, you will also want to establish how they will get information to your station and others in the event of a crisis. Who will be the primary contact? Is there a telephone hotline of some kind? And what will you do if communications are down? Reinforce the importance of openness and accessibility so you can get timely information to people when they need it.

STEP THREE:

Create a Disaster Communication Plan.

After gathering the necessary information, you'll want to create a “Disaster Communication Plan” that highlights what local residents will need to know in the event of a disaster, as well as how your station will keep on top of disaster developments as they happen.

Your Disaster Communication Plan should include: important safety and survival information for individuals and families; information on where people can go for temporary housing, food and water; emergency contact information; and more (see “What People Need to Know.”) It also should include names and numbers of key contacts – local and state emergency

management officials, police and fire officials, and others – whom station personnel can contact to find out what's happening and what messages to communicate to the public.

STEP FOUR:

Bring Everyone Up to Speed.

Often, there is no telling when a disaster will strike – or who will be on duty at the station when it happens. This means that all station personnel – especially news directors, producers and on-air talent – need to be fully briefed on the station's Disaster Communication Plan.

In addition to regular “refresher” briefings with station staff and special sessions for new employees, you might want to post a shortened run-through of the station's disaster plan in a prominent place in your office so everyone sees it. You'll also want to keep a copy in the broadcast studio for handy reference.

STEP FIVE:

Broadcast through the Crisis.

Hopefully, you will never get to Step Five. But at least you're prepared. Remember: The key to broadcasting through a crisis is getting people the information they need to get through it themselves. That means broadcasting regular news and weather updates, as appropriate, and providing survival and safety information so people can cope.

If possible, you may want to interview local or state emergency management agency representatives, police and fire officials, local America Red Cross and other “experts” to give your audience an idea of exactly what is going on, and what people and families are being

advised to do. Be sure to repeat important phone numbers and other information so you're certain people understand everything they need to know.

Broadcasting through a disaster is among the most important community services your station can provide. You may be the only link people have to survival information, support and an encouraging word – a voice that tells them they're not alone.

What People Need to Know

Information is a precious commodity when disaster strikes – and broadcasters can make it available to everyone. Here's what people in your community will need to know:

- Whether to evacuate or shelter-in-place.
- Which routes to take if they have to leave.
- How to protect themselves and their families.
- How to remain calm.
- What to expect in the hours and days ahead – for example, more aftershocks in the event of an earthquake, continuing dangerous weather or the possibility of additional terrorist strikes.
- Whom to call for immediate medical attention or rescue.
- Where to locate information about missing relatives, neighbors or friends.
- Where to go for medical care.
- Where to find temporary shelter, food and water.
- What police, fire and other agencies are doing.
- What types of assistance are available to individuals and families.
- How to get involved in local relief efforts.

After The Disaster

Answering The Call For Help

Once a natural or man-made disaster is over, it is time for relief efforts to get under way. The individuals and families hit hardest by the disaster will need food, water, shelter, medical attention, financial assistance, and help finding loved ones and lost possessions, among other needs. And, once again, broadcasters can help.



Local radio and television stations can play a leading role in alerting people to what types of disaster relief are available – and where they can go for help. Stations also can get involved in local relief efforts by donating goods and services people need.

Think about what your station could do to help answer the call for help in the aftermath of a disaster. The following three steps should form the core of your response:

STEP ONE: **Find Out What's Available.**

A terrorist attack or natural disaster will prompt numerous agencies and organizations into action to provide

relief services to individuals, families and neighborhoods. A key task for local television and radio stations in the immediate aftermath of a disaster is to find out exactly what types of relief are available, who the sponsors are, and how people in the community can contact them.

The chief sponsors of disaster relief services are the following:

THE AMERICAN RED CROSS assists the victims of thousands of disasters every year. A private, not-for-profit organization, the American Red Cross operates shelters and provides meals and snacks for individuals and families forced out of their homes. It also provides emotional and physical health services, as well as individual

and family assistance in meeting recovery and rebuilding needs, among other services. Contact your local American Red Cross chapter for more information.

THE SALVATION ARMY provides a range of “response and recovery programs” for communities hit by disasters. Services include: spiritual ministry; counseling and emotional support; preparation and distribution of food; shelter; financial grants for immediate needs; donated materials; and reconstruction and rebuilding. Contact your local Salvation Army Corps to find out what services are available in your area, or call the Salvation Army’s national disaster hotline, 1-800-SAL-ARMY.

LOCAL AND STATE EMERGENCY MANAGEMENT AGENCIES coordinate local- and state-level response efforts. Often, a mayor or county executive will activate a local emergency operations center (EOC) that leads the response effort at the scene, coordinating the work of police, fire, paramedics and other agencies. The mayor or county executive then requests aid from the governor, who activates a state EOC. Contact your local or state emergency management agency for more information.

THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), a division of the Department of Homeland Security, becomes involved after the President declares an emergency or major disaster at the request of the governor of your state. A Presidential declaration can make a broad range of assistance available to individual disaster victims, from temporary housing and unemployment assistance to low-interest loans for repair or replacement of real and personal prop-

erty. FEMA has a toll-free number available for individuals seeking information about available assistance and how to apply. The number is 1-800-462-9029.

STEP TWO:

Draw Attention to Opportunities for Aid.

Whether it’s food or low-interest loans, broadcasters can play an important part in making sure people know what assistance is available and where they can go for help. Use news, PSAs and other programming to spotlight the different types of aid. Be sure to provide contact numbers and addresses, application information, and details about who can qualify for what types of aid in all your coverage.

A good way to introduce people to what’s available is to interview local and state officials, American Red Cross and Salvation Army leaders, and others. You might also want to produce a live report from a temporary shelter or food distribution center.

Be sure to provide as comprehensive a list of available services as possible. Local residents may be unaware, for example, that they can get crisis counseling or job placement assistance, or even tax relief in claiming casualty losses from the disaster.

STEP THREE:

Organize a Relief Drive of Your Own.

Of course, broadcasters themselves often provide important disaster-relief services over and above their efforts to keep communities informed. From organizing blood drives and recruiting community volunteers to collecting canned goods for distri-

bution in hard-hit neighborhoods, stations can get directly involved in disaster relief efforts in a variety of ways.

The best approach to organizing a disaster relief drive is to coordinate your efforts with the work of the experts in the field, such as the Salvation Army, American Red Cross, or local and state emergency management officials. They will have a better idea about what types of goods and services are needed, where they should be targeted, and how best to get them to people in need.

When Disaster Strikes Somewhere Else

Broadcasters can play an important role in disaster relief even when a disaster strikes somewhere else. We have all heard the stories time and time again: a community mobilizes to provide disaster aid to another community that is hundreds or even thousands of miles away. Disaster has a way of reminding us that we are all in this together and that another’s misfortune could just as easily have been our own. Our natural impulse is to help in any way we can.

Broadcasters can help people act on this impulse by organizing local relief drives for residents of disaster-stricken communities, or by providing people with information on how they can support existing relief efforts. The smartest approach is to contact your local American Red Cross or Salvation Army to find out how your station can best be of service. At a minimum, stations can easily broadcast relief agency contact numbers should people want to make donations. Make a point of including this contact information in news coverage of disasters affecting other communities throughout the country and around the world.

Public Service Announcements

Following are sample scripts for PSAs on disaster preparedness issues. Use these as the basis for locally produced spots. You may also want to produce PSAs telling members of your broadcast audience precisely how they and their families can prepare for the disasters that are most likely to hit your area.

To get people the information they need, work with your local Citizen Corps Council, American Red Cross and Salvation Army organizations, as well as your local and state emergency management offices.

Terrorism isn't just a threat for big cities. It's a potential threat everywhere, even right here. That's why all of us need to think about how to be ready in the event something happens. What does it mean to be ready? It means having a kit of emergency supplies, as well as a plan for what we'll do, how we'll communicate with our families. And it means learning more about the kind of threats we might face. Don't wait for a disaster to find out if you're ready. Visit www.ready.gov for more information. This is a public service message from (station). (30 seconds)

Whether we face a natural disaster or a man-made one, it's still a disaster. And we need to be ready. That means having a kit of emergency supplies, as well as a plan for what we'll do, how we'll communicate with our families. And it means learning more about the kind of threats we might face. Visit www.ready.gov for more information. This is a public service message from (station). (20 seconds)

Have you packed a family disaster kit? Know what route you'd take out of town if you had to evacuate? Think I'm paranoid? Think again. Visit www.ready.gov to find out more about what you can do to prepare for a natural disaster or terrorist incident. This is a public service message from (station). (15 seconds)

You know, the Boy Scouts have it right. When it comes to terrorist threats and other disasters, we need to "Be Prepared." Visit www.ready.gov to find out what you can do to protect yourself, your family and your business before disaster strikes. This is a public service message from (station). (15 seconds)

PREPAREDNESS PSAs AVAILABLE FROM OTHER ORGANIZATIONS

THE U.S. DEPARTMENT OF HOMELAND SECURITY AND THE AD COUNCIL have produced a series of PSAs for radio and TV on citizen preparedness. The spots are part of a wide-ranging public education media campaign designed to empower American citizens to prepare for and respond to potential terrorist attacks and other emergencies. The campaign provides individuals with specific actions they can take to protect themselves and their families. Spots are available at: www.adcouncil.org/campaigns/homeland_security/ and can be customized for your community by local broadcasters or local officials.

THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) produces a variety of radio PSAs and news feeds on disaster issues. PSAs for broadcast before a disaster offer tips for preparing for hurricanes, tornadoes, earthquakes and other emergencies. Other messages, for broadcast after a disaster, offer safety and survival tips, plus information on how to apply for disaster assistance from the federal government. FEMA's PSAs are available in English and Spanish and for general and urban contemporary audiences. PSAs are available via the FEMA website – www.fema.gov – and FEMA's Radio Network at 1-800-323-5248, which also produces radio news feeds on timely disaster topics.

THE AMERICAN RED CROSS has radio and TV PSAs and live-read copy available on a wide range of preparedness topics. All of them feature the American Red Cross toll-free number, 1-800-HELP-NOW, through which people can support the organization's disaster-relief efforts. Contact your local American Red Cross chapter or visit www.redcross.org/press/psa/psa.html for a preview of what's available.

THE SALVATION ARMY has radio and TV PSAs available on the group's disaster relief efforts. The PSAs include appeals for donations and volunteers and ask viewers to contact their local Salvation Army Corps for more information. Contact your local Salvation Army Corps for information about what's available.

THE AMERICA PREPARED CAMPAIGN has a variety of PSAs available. Visit www.americaprepared.org to learn more. America Prepared is a non-profit, non-partisan organization that helps American families prepare for disasters, with a focus on terrorism.

AMERICAN RED CROSS

800-HELP-NOW

www.redcross.org

FEDERAL EMERGENCY MANAGEMENT AGENCY

www.fema.gov

OR CONTACT YOUR FEMA REGIONAL OFFICE:

Region 1 (CT, MA, ME, NH,RI,VT)	617-223-9540
Region 2 (NJ, NY, PR, VI)	212-225-7209
Region 3 (DC, DE, MD, PA, VA, WV)	215-931-5608
Region 4 (AL, FL, GA, KY, MS, NC, SC, TN)	770-220-5400
Region 5 (IL, IN, MI, MN, OH, WI)	312-408-5500
Region 6 (AR, LA, NM, OK, TX)	940-898-5399
Region 7 (IA, KS, MO, NE)	816-283-7002
Region 8 (CO, MT, ND, SD, UT, WY)	303-235-4830
Region 9 (AZ, CA, HI, NV, Pacific Territories)	415-923-7100
Region 10 (AK, ID, OR, WA)	425-847-4687

THE SALVATION ARMY

800-SAL-ARMY

www.salvationarmy.org

U.S. DEPARTMENT OF HOMELAND SECURITY

www.ready.gov

CITIZEN CORPS

www.citizencorps.gov

The background of the top half of the page features a large, waving American flag on the left side. On the right side, there are three overlapping portraits of young people: a woman at the top, a young man in the middle, and a young woman at the bottom. All three are looking directly at the camera with neutral to slightly smiling expressions.

Are You READY?

A Step-by-Step Emergency Preparedness
Guidebook to Prepare Your **Station**

Get a Kit
Make a Plan
Be Informed



Homeland
Security

NABEF
NATIONAL ASSOCIATION
OF BROADCASTERS
EDUCATION FOUNDATION

About This Guidebook

This half of the *Are You READY?* guidebook was prepared by the National Association of Broadcasters Education Foundation (NABEF) and Jim Topping, Sr. Vice President, ABC Owned Stations (Retired), and Broadcast Consultant. It is an outgrowth of a lecture Mr. Topping gave at *Making News*, a program sponsored by NABEF. His lecture was identified by the class as an instrumental tool for preparing their stations to stay on-air in times of disaster. The Foundation believes that all stations will benefit from this material. We are grateful to Mr. Topping for sharing it with us.

For additional information about preparing your business for disasters, see the U.S. Department of Homeland Security website, www.ready.gov.

U.S. Department of Homeland Security Launches “Ready for Business”

As part of its ongoing *Ready* campaign, the U.S. Department of Homeland Security is launching a comprehensive effort to help businesses throughout the country plan for disaster situations. “Ready for Business” outlines common-sense measures that business owners and managers can take to make sure their companies can survive a disaster – and recover quickly.

“Ready for Business” offers a three-step framework that can help broadcasters think about what they need to do to prepare:

1. PLAN TO STAY IN BUSINESS.

For broadcasters, this entails everything from maintaining duplicate lists of key clients and suppliers so they can be contacted in the event of a disaster or power outage to developing detailed evacuation plans for employees. In the event that employees can't leave the station and have to “shelter-in-place,” people will need to know what to do and where to assemble – as well as how to ensure up front that they have the emergency supplies they need.

2. TALK TO YOUR PEOPLE.

One of the best ways to make sure the station can survive an emergency situation is to involve employees at all levels in disaster planning. You'll need to establish procedures for warning employees about impending situations and communicating emergency plans and procedures. And then comes the most important step: practice, practice, practice. Think about everything from how to shut off air systems in the event of a biological or chemical attack to the special needs of individuals with disabilities. You'll also want to consider training employees in first aid, especially reporters who might arrive early on the scene of a disaster.

3. PROTECT YOUR INVESTMENT.

Broadcasters have untold sums invested in sophisticated technology and other equipment. In addition to emergency planning, you'll need to review your insurance coverage for such things as physical losses, flood coverage and business interruption. And, to prepare for utility disruptions, you'll want to make sure your back-up generators are in good working order. Last but not least, now is the time to check that you have the necessary fire extinguishers, smoke detectors and security systems (including “cyber security”) to protect your business assets in the event of a crisis.

More information on these three “Ready for Business” steps is available at www.ready.gov.

Are You Ready?



In broadcasting's earliest days, reporting emergency conditions or a natural disaster relied on wire service reports, telephone calls and the few gallant on-scene reporters – who somehow managed the unpredictable business of feeding a microphone signal through telephone hard lines to a distant broadcast studio.

From those primitive efforts developed the public belief that broadcasting had special skills for immediacy and presence; for informing, aiding and communicating in times of great turmoil. For nearly a century, broadcasters have been practicing and honing these skills while crafting the technology required. We continue to fulfill our historic responsibility to notify and enlighten during the worst of times. We attempt to help our audience prepare for possible crisis, and we issue the warning when some natural adversity – or man's own devastating mischief – overwhelm our communities, bringing tragic, often fatal results. Hurricanes or Columbine, blizzards or earthquake, disasters demand our best reporting.

We have now added the dreadful horror of the terrorist's mad invention. We have witnessed catastrophe beyond imagination and shared the injury and heartbreak with the nation. From that experience, we have been forced to imagine what great crime might lie in wait in the future. Such speculation provides a daily reminder of the next possible outrage or attack. Never has our responsibility to communicate been more keen.

As the nation continues to ready, to be on guard against further appalling assault, broadcasters are once again asked to exhibit leadership. We are urged to be the reliable and constant information source for our respective communities. Still, only a handful of

broadcast operations have faced the predicament of operating from within a disaster of the magnitude of September 11th. Broadcast antennae fell, along with the Twin Towers. Power, phones and transportation wavered. Immediate context and understanding of this massive event perished in the billowing dust of debris, lost communications, lost staff and lost official control.

So, in the aftermath, we are all left with a professional responsibility to prepare ourselves in the awful event that it comes to our own homes and streets. It's a reasonable assumption that the nation's security buildup and the immediate response to the attack on our largest cities will lead the terrorists to seek opportunities and targets in our less guarded cities and communities. For broadcasters, to plan for disaster – and have nothing befall us – is infinitely better than the reverse.

The following pages are intended as a tool to organize your station for "Disaster Preparedness." If your preparations are already in place, then it may serve as a reminder and checklist to keep your plan current and tested regularly.

Disaster Plan

Pieces of the Puzzle

So what can happen? Here are some broad categories for consideration guaranteed to provoke sleepless nights:

TERRORISM: bombings, suicide attack against the population, bio-hazard and chemical weapons, police actions to interdict attempts.

NATURAL DISASTERS: earthquake, hurricane, forest fire, tornado, massive storm (snow, rain, ice), flood.

PUBLIC INFORMATION/ EMERGENCY: AMBER Alert, medical emergency/disease, transportation shutdown, utility shutdown, health risk, shooting in public place.

PUBLIC ACTIVITY: demonstrations, riots, criminal stand-off, “spring break.”

How do we respond? It helps to name the problem. Here are some of the usual descriptions when listing the likely stages of a station’s response – it also helps when everyone has a similar expectation of what the operational priority means.



- A. This is the highest level. “A” priority is a significant event requiring the full news and production facilities of the entire station. Regular programming is cancelled for an extended period. Off-duty staff is called back. Department emergency procedures are begun. The event is likely to require open-ended coverage.
- B. The second level response causes a program interruption while the event takes place. The News Department coverage operates at a higher than normal level. Multiple stories may be assigned for reporting. Use of live production is extensive.
- C. This is the “breaking news” level. It may cause a brief program interruption for a special report or even a “crawl” over programming. Full reports will follow in regularly scheduled newscasts.

If other terms are currently in use and understood within the station, there’s no need to change. Staff consensus and the ability to “shorthand” discussion is the intended result.

Your Disaster Preparedness Plan may briefly refer to these response categories to build understanding and agreement in terms among the staff. Some procedures for “B” and “C” might be included. However, the “A” level event is the driving purpose behind the station’s disaster plan and should clearly be the focus of the protocols and responsibilities listed within the plan.

The Departments that aren't NEWS

All the principal station departments will be tasked when a major disaster event happens. Broadly defined, all of the following will have a substantial role: Management and Administration, News Department, Engineering, Sales and Traffic, Programming, Promotion, Public Affairs, General Services and Human Resources.



All too often, station plans begin and end with News and Engineering, leaving aside everyone else. Then, in the midst of some coverage crisis, needed support is requested and supplemental staff is drafted from other departments. Borrowed staff is given

rudimentary direction and then pressed into service to attempt unknown duties – using uncertain practices. The station plan should be as wholly inclusive as time and a good imagination can permit.

What would we do if...

Something happens



Start with lines of authority. Managing an emergency event begins with the first notice of an impending disaster. Who rings the alarm bell to set the plan in operation? Normally, the News Director or the next manager down the news roster will signal that some considerable event is occurring, which might trigger a full station response.



The News Director has authority over both coverage and program cancellation in the instant knowledge that something extraordinary is taking place. The General Manager and other department managers are notified and given the first assessment of the event. The General Manager, concurring with the “A” priority, directs all departments to begin implementing the disaster operational plan. The GM will provide coordination and referee any conflicts as conditions warrant. Other department managers prepare to support the operation and to determine what departmental work can continue while the coverage support commences. If the emergency

has caused power loss or other disruption of building utilities, each department manager is responsible for assessing whether safety or the work environment is compromised in his/her area.

At this early point, a brief discussion of “resource pooling” or inter-station cooperation, even a competitive “stand-down” for simultaneous broadcast, should take place to determine general guidelines. The guidelines can be reviewed and given further consideration as the story develops. Serving the public should be the overriding concern in setting the line for collective coverage with other stations.

Written pre-arrangements should be in place to allow joint broadcast agreements; think ahead as to what might be useful when the need arises. It extends your reach and underscores the station's commitment to the audience.

- Utilize radio stations in the market to carry your audio signal – not just “all news” but ethnic broadcasters and specialty interest outlets.
- Other options: provide your signal to non-English language television stations where news coverage is limited or absent. You can offer brief updates each half-hour, which can be translated by a local foreign language station to expand your own coverage. You might invite one of their staff to work from your newsroom to translate or report your coverage information as it happens.
- If your transmitter or signal is down (think 9-11), can you use another station to get your signal out? [Over-the-air shopping networks you can reach by microwave are possibilities – then use radio to let the audience know where your signal can be found.] Campus stations and cable head-end locations should also be located and surveyed.

WHERE'S THE STUFF YOU NEED – WHEN YOU NEED IT?

We rely on our modern amenities and infrastructure; it can all disappear in a disaster. What hasn't been put in place in advance can't be located or built in the trenches. Think through what redundancy is available or needed and how to bypass problems and choke points.

ATM machines shut down. Credit cards can't be used without phone lines to verify. Checks may not be accepted. Secure a cash-on-hand reserve in the business office sufficient to cover expenses. You want to provide for normal daily needs and a few unexpected ones like flat tires, replacement clothing, cabs, meals, and such. Cash to pay for a driver or helper or gofer becomes important in the field. Suggested reserve amounts begin at \$5,000 and go up quickly in expensive living areas.

Communication is a decisive element for success. Some news departments have opted to use cell phones and abandon vehicle radio networks. But, a major event has everyone grabbing for a cell phone. Cell sites fill up instantly. Remember how hard it is to get a call through when a big game crowd is letting out. What's left? PDAs with email can often get through. Push-to-talk cellular can be

on different frequencies. Will those forgotten vehicle radios still work if maintained? What will you use for IFB if it's linked to cellular? There must be



an immediately available backup system. Examine the market for discrete resources that might be in place for atypical users – check with service providers for what's possible. Data security and system security can disappear. Who knows how to re-boot your computer systems? Is there an IT hot-shot on staff or available – or someone who can be called in to troubleshoot despite the event? Where are backup passwords located, if a key person or system administrator is absent? How can you access the other guy's computer? Are there extra computers when additional staff is suddenly added to a schedule?

People will be piling up and working around the clock: cots, blankets and a rest area are pressing needs. First aid equipment, safety equipment and dust masks must be purchased in advance. Store personal supplies such as toothbrushes, razors, aspirin, antacid and t-shirts.

Families of staff will need to be notified; “day care” can be an issue for those with youngsters; help is needed for spouses expecting a ride home; even vacations or birthday parties get cancelled. What can the station provide in assistance? Staff transportation may be compromised; think car pools, rental vans, shuttles, temp drivers.



It all begins in News

The biggest chapter in the plan



Who's in charge of what? The normal chain of command works day-to-day but special skills and fortitude are required during turmoil. Assess these skills and overall responsibility for production and coverage assignments beforehand. The News Director may be the best assignment editor ever – then decide who's going to executive produce the on-air product and have the overall view. Play to strength, not necessarily the usual roles.

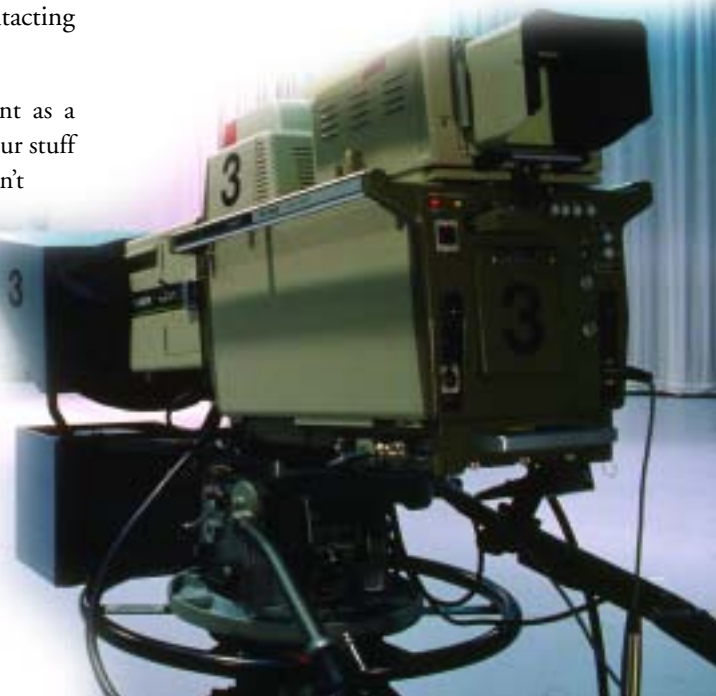


Crisis needs protocols and operating procedures. Spell them out in detail in a companion plan just for the News Department, where specifics can be amplified and made clear. It seems to be the first law of chaos – things blow up, fall down, or crash whenever essential staff is away or unreachable. What's the succession thinking? Who moves up or takes over or fills in during the crucial early hours of coverage? If a manager, anchor, artist, teleprompter operator, master-control switcher – or someone else is missing – what's the solution? Have a critical jobs list with substitutes.

Phone trees must exist before the event. This call list is kept readily at hand and should not be buried in a forgotten file cabinet. The same is true for a list of pager codes and email addresses. An "inward 800-number" can become a life line for contacting the station.

Disburse vehicles and equipment as a normal practice. Don't put all your stuff behind a fence gate that won't open without power or at the end of a driveway that could be blocked by debris. Consider allowing crew cars to go home with the photographers, if you don't now. Or, rotate the privilege among enough crews to begin emergency coverage effectively, when needed.

Where does the broadcast originate: from a studio setting requiring full lighting, a "flash studio" or perhaps the newsroom itself (chaos and all)? The newsroom setting may facilitate communication and late scripts and shouted instructions (and less power), and even allow the audience to be a part of the effort. But it takes some advance preparations. Are there facilities at the transmitter that would let you broadcast directly from that site or another if the station premises are unsafe or unreachable?



PRODUCTION NOTES:

Plan on regular updates: include a catch-up review along with the latest story developments. People will be joining and leaving the broadcast over time. If you don't have simultaneous closed-captioning on call (much preferred), you can script updates every half hour and feed the prompter to the captioning system to provide visual information for captioning. Even with script captioning, field reports and studio discussion will be unavailable to the hearing impaired.

Graphics greatly assist reporting clarity. Make up maps of well known community areas in advance for reference. Locate shelter sites selected by the local government emergency management offices and agencies such as the American Red Cross. Map them beforehand, as well. Think about bridges, tunnels, freeways and such that are critical for movement.

You may need help – desperately – as days pass. What relief is available from sister stations or through mutual-aid agreements with nearby markets? Who's worthwhile on the list of "daily hires" or freelancers? Are there retirees or summer vacation relief that could be called in for special needs? People who already know your shop can very rapidly add to the work effort.



You will be pressed by other stations to provide live feeds or to make a place for their own crews to feed out by satellite. If possible, isolate a small group – e.g., reporter, producer, camera, and editor – to fulfill requests, independent of your continued reporting. You don't want to stop down periodically to draft someone to feed an outside station update. To avoid the conflicts and angry phone calls, borrow a bright person from another department to field calls and list requested feeds. It would also be helpful to keep an eye out for stations that helped you in the past as reciprocal favors. If possible, create a "flash cam"

location in or near the newsroom with a direct line to the satellite uplink pathway. It should have preset lighting, a robotic or fixed camera and microphones. Provide a direct feed off the camera to a nearby monitor so the reporter can adjust position by simply checking the picture. The feed can then be switched manually avoiding additional tech crew support.

Teamwork Rules



It's still the assignment desk that covers the story but they will need help. This includes telephone answering, running notes, checking facts, scheduling people (political figures, emergency directors, etc.) to come to the studio for interviews. It's a good place for utilizing other department staff – easily directed and low-tech.

Producers plot the story line and build the on-air production on the fly. Use field producers whenever possible [even an intern can be on the phone or a radio to cue reporters and to pass on “stand bys” or notes and directions during live shots]. It's a sure way to calm overwhelmed producers and reduce on-air awkwardness and confusion.



Select an Executive Producer for overall on-air control, who can watch the flow of information and the story line progress from “off the firing line.” It's a view difficult to achieve for everyone else who is caught up in the turmoil of producing the coverage. The EP can sense the direction of the story and suggest missing elements or see opportunities to re-direct resources, and even provide some critique as the work progresses.

File footage can be very useful to explain “then and now” damage or a past disaster for comparison. Isolating and editing file video of similar historic disasters or serious incidents provides a ready source of material to talk over, especially as the hours grow long and the current-day video, however dramatic, becomes over-used, even irritating.

If the focus point of the occurrence is located out of your main community area, can a field broadcast site be set up? Is there an office building or hotel or high point that allows the scene to be a backdrop to your reports? You'll be helped by a pre-survey of micro-

wave paths for significant locations in your area such as military bases, theme parks, arenas or places of large public gatherings. Create a log of feedpoint locations that consistently work – in a disaster, crews may be working in unfamiliar areas and can set up quickly using the live site log-book.

MORE ENTRIES ON THE THINK AHEAD LIST

The News Department may need special purpose equipment for unusual or rugged locations: helicopters, fixed-wing aircraft, float planes, 4x4 vehicles, even boats may be required. Know the suppliers and agree on prices and availability before the line forms or prices go up.

Plan for the arrival of the “bigfoot” reporters: the network crews, cable news crews, even syndicated show



production crews. Will you house them or provide facilities? Is it for free or an agreed charge? Will they have access to all your video and interviews? Deciding on what protocols to follow (including pre-agreements with network bureaus) will greatly reduce the visiting firemen from shopping your news staff for more favorable answers – tilted their way.

Usually, everyone will rise to the challenge during an actual major event. However, remember it will eventually conclude and then injured feelings will surface. Is there a rotation plan for the long haul to relieve anchors, reporters, production staff and to share the high visibility exposure? Should you produce a scheduled newscast or simply keep the coverage ongoing? What about union rules – does the contract permit conditions under which non-union trained staff from other departments or freelancers could fill in under emergency rules? And, have you offered any training/experience to prepare non-news personnel so they could provide a backup pool for non-technical tasks?

THEN THERE'S SIMPLE SURVIVAL

On the immediate need list put the expected emergency supplies: flashlights, batteries, maps, foul-weather gear, food packets, water bottles (filled), dust masks, glow lights – a designated closet for these sundry supplies will eliminate the mad dash to find a store that's still operating.

Increased building security is often an issue. A 24-hour full-blown operation has a lot of people coming and going with new faces on both sides of the security checkpoint. You may need guards for equipment and staff working in dangerous field situations. Can your security provider ramp up quickly? Or, does your system allow you to quickly add card keys and/or ID cards (or delete them) to allow access for temporary workers? If street lighting is out in your area, will you need escorts for people going to their cars or public transportation? Keep in mind that a disaster mostly brings out the best in people, who hasten to help each other – but it also provides an invitation to troublemakers.



News management should be aware through private conversations of any health or family issues among individual staff, such as: special family situations, medical restrictions, allergies, emergency prescriptions; a “fear of flying” in small planes – anything that could hamper a story assignment. The emergency it is not the time to discover a personal issue that constrains a person's ability to work – especially under the trying conditions of reporting on a disaster.

The basic question becomes: What are the minimum requirements to run round-the-clock – staffing, cash, housing, food, equipment – until some level of normalcy is regained in the community? In general, to be self-sustaining for 96 hours is a good benchmark. At that point, it's likely that needed things can be shipped in, borrowed or replaced.

Department by Department

Engineering: power, power, power – if you ain't got it, you ain't on the air. Set a mandatory check monthly to make actual test runs of generators, automatic power switching, and the connections on the emergency power grid. Remember, while the main transmitter power is always backed up, are the auxiliary transmitter, satellite dishes, STLs, communications antennae, roof cameras, even weather instruments online? There is nothing so disheartening as looking at a spread of TVs in a manager's office and realizing your station's screen is the only one showing "snow" and white noise.



What's on the building emergency grid? Technical spaces and news production areas are included, certainly. Assure that new work spaces and equipment are added to the grid whenever any new element is placed in service. Have a schematic and mark the wall outlets and power sources that remain "hot" when emergency power is activated in a highly visible way. Cell phones, camera batteries and other electronics will need to be plugged in to recharge. So will electric razors.

Don't forget those pesky bodily functions demand some attention: designated restrooms, coffee rooms, snack areas/candy machines are usually located in interior space and windowless rooms – no lights make for very difficult circumstances and very cranky staff. If you're trying to take care of bathroom business while holding a cigarette lighter, that's more than a challenge. Are there emergency lights in stairwells when elevators don't run? What about the parking garage?



ADDED TO THE ENGINEERING LIST:

FUEL SUPPLIES: The emergency generator for the power grid needs a minimum four-day supply of fresh fuel in the tank. Designated vehicles (any live trucks, and a minimum number of news cars) should be filled at the end of every workday – but no news vehicle should ever have less than a half-tank, if at all possible to maintain.

PHONES: If your switchboard is down, can you route around it for local extensions (direct dial the extension number)? Are there sufficient direct phone lines at critical operating areas to allow communication despite the switchboard problem? Is there a supply of cellular batteries for replacement of dead or bad units? Does the community terrain suggest the use of satellite phones as an alternative communication to critical sites?

VENDOR AGREEMENT: Is there a vendor agreement for emergency repair/replacement of critical equipment during an emergency – rather than leaving a message on an answering machine? Is there a technician familiar with your station, who can be assigned through pre-arrangement rather than getting the "next available" tech? Could that friendly tech be present at the station for the run of the event? Or, automatically report to the station in an emergency? At what pre-agreed cost?

And then there's everyone else:

SALES	PROGRAMMING	PROMOTION	PUBLIC AFFAIRS
<ul style="list-style-type: none"> • What spots run, if any • Log protocols • Top \$\$ clients & spots if a break is taken • Notice given to clients re: lost ad schedules 	<ul style="list-style-type: none"> • Syndication programs & movies pre-timed for fill programming if needed • Crawls or announcements of program delays or drops (especially soaps) 	<ul style="list-style-type: none"> • Alert audience to changes and special reports • Create promos as programming schedule slides • Assist News with graphics; build emergency number lists, shelters, agencies offering aid, etc. 	<p>Think community groups: ethnic, language, hearing-impaired – what's needed? Be an advocate for them with station coverage.</p>
<p>Build a commercial log for specialty clients—hardware stores, utilities, “sale” cancellation notices—when ads can run again</p>	<p>Coordinate network schedules, soaps, special programs as needed</p>	<p>Utilize station Web page for linking audience to changes, special information, promote special programs or telethons</p>	<ul style="list-style-type: none"> • What's open – stores, food, gas • Closures/cancellations – school, meetings business
<p>Provide backup staff and support</p>	<ul style="list-style-type: none"> • Watch the station on-air and the competition • Be an informed viewer to advise News 	<p>Identify video and “best coverage” for future promotion and possible award submissions</p>	<p>Talk with community leaders about issues that may come up – show the flag</p>

Some other helping hands

Human Resources and the business office can keep a running account book on the event. In combination, they track and verify cash disbursed, temp hires, freelancers, vehicle rentals, direct billing hotel charges, food purchases, additional supplies. They validate vendor use and charges. They assure that temp employees have necessary personnel records prepared for IRS, Social Security, insurance and the like. A “best practice” is to assign some administrative staff to work directly within the newsroom during the coverage. They can pick up some of the burden of tracking costs and records from the frantic news staff. And there's an advantage in creating the paper trail by seeing the process and activity take place.



As information becomes available (hopefully), a daily “rough draft” expense sheet is prepared for the General Manager, showing the cumulative spending above current budget – it provides a “best guess” running measure of the station investment.

The General Manager should set a daily briefing of the event attended by department managers. It is a quick opportunity to review the needs of the community, to exchange information, remove impediments, consider the wear and tear on the staff, station, and equipment and simply touch base. Experience suggests mid-morning is least intrusive but the schedule must shift as events warrant.

And after the fact...

Following each major emergency event, a thorough review of the plan should be made to allow adjustments for knowledge gained. The review should not be limited to news coverage alone but needs to include the experiences of all departments and managers to develop the broadest possible history of what took place, what worked, what would benefit by revisions.

Lacking some existing fixed schedule, pick a time to assess the “disaster plan” annually. An add-on to an existing evaluation period, such as annual budget preparation, helps instill the habit. It will institutionalize both the plan and its upkeep and revision. The review is particularly important when your community does not commonly experience disaster events or if it’s been a long time since the last episode. Also, there is value in exchanging disaster plans with sister stations or friendly broadcasters in neighboring markets to see what measures someone else has imagined.



Disaster Plan Checklist:

[Departmental assignments are suggested but may vary by station]

ANNUAL REVIEW OR VERIFY	DEPARTMENT	VERIFY	DONE
Joint broadcast agreements: other stations	GM, News	<input type="checkbox"/>	<input type="checkbox"/>
Alternative microwave signal paths	Engineering	<input type="checkbox"/>	<input type="checkbox"/>
Establish cash box for emergency funds	Business Office	<input type="checkbox"/>	<input type="checkbox"/>
Vendor agreements: data and IT security	Engineering	<input type="checkbox"/>	<input type="checkbox"/>
Review labor contracts for emergency rules	HR	<input type="checkbox"/>	<input type="checkbox"/>
Make building "walk through" for safety/security	All	<input type="checkbox"/>	<input type="checkbox"/>
EMERGENCY SUPPLY CLOSET - LIST CONTENTS:			
Clothing: t-shirts, caps, sweatshirts	Promotions, HR	<input type="checkbox"/>	<input type="checkbox"/>
First aid kits	HR	<input type="checkbox"/>	<input type="checkbox"/>
Safety equipment: dust masks, eye wash, etc.	HR, Business Office	<input type="checkbox"/>	<input type="checkbox"/>
Personal items: toothbrush, hygiene wipes, etc.	HR, Business Office	<input type="checkbox"/>	<input type="checkbox"/>
R&R: cots, blankets,	News, Business Office	<input type="checkbox"/>	<input type="checkbox"/>
TRANSPORTATION/LOGISTICS			
Phone tree lists	Business Office, News	<input type="checkbox"/>	<input type="checkbox"/>
Car pool lists	Business Office, HR	<input type="checkbox"/>	<input type="checkbox"/>
Rental vans, trucks, 4x4's	Bus. Off., Engineering	<input type="checkbox"/>	<input type="checkbox"/>
Special purpose: RVs, choppers, boats	News, Engineering	<input type="checkbox"/>	<input type="checkbox"/>
PRODUCTION AND ENGINEERING SPACES			
Test lighting and tech equipment on emergency grid	Engineering	<input type="checkbox"/>	<input type="checkbox"/>
Set up "flash cam" position	Engineering	<input type="checkbox"/>	<input type="checkbox"/>
Arrange "captioning" agreement for emergencies	News	<input type="checkbox"/>	<input type="checkbox"/>
Pre-survey RF sites for pathway locations	News	<input type="checkbox"/>	<input type="checkbox"/>
Catalog backup programs/syndication – timeliness	Program	<input type="checkbox"/>	<input type="checkbox"/>
Build "emergency message" graphics	Promotions	<input type="checkbox"/>	<input type="checkbox"/>
WEEKLY REVIEW			
Test EAS equipment to ensure proper operation	Engineering	<input type="checkbox"/>	<input type="checkbox"/>
MONTHLY REVIEW			
Test emergency generator and fuel supply (fresh)	Engineering	<input type="checkbox"/>	<input type="checkbox"/>
Security system test and purge outdated access	Business office	<input type="checkbox"/>	<input type="checkbox"/>
Review all new equipment in service for use on grid	Engineering	<input type="checkbox"/>	<input type="checkbox"/>
PERSONNEL			
Schedule training for back-up staff positions	All	<input type="checkbox"/>	<input type="checkbox"/>
Poll staff for medical or other restrictions	All	<input type="checkbox"/>	<input type="checkbox"/>
Review new hires/temps for special skills/training	HR	<input type="checkbox"/>	<input type="checkbox"/>
Verify staff contact information for changes	All	<input type="checkbox"/>	<input type="checkbox"/>
Validate numbers/contacts for Emergency Service Center and public agencies	News, Public Affairs	<input type="checkbox"/>	<input type="checkbox"/>
Ad client special needs and/or protocol for schedules in emergency – 24/7 contact numbers	Sales	<input type="checkbox"/>	<input type="checkbox"/>
Pre-set ad schedules for specialty clients with emergency-related businesses	Sales	<input type="checkbox"/>	<input type="checkbox"/>

